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Current Topics.

Books of Authority.

SOME readers of the report of the decision in *Nicholls* v. *Ely Beet Sugar Factory, Ltd.*, in the current volume of the Law Reports—[1936] 1 Ch. 343—may have been somewhat puzzled on finding in the judgment of the Master of the Rolls a reference to, and citation from, Sir FREDERICK POLLOCK'S "Law of Torts," prefaced by the statement that it is "fortunately not a work of authority." At the first blush this might seem the reverse of complimentary, but to those familiar with the curious attitude of the courts towards the writers of legal text-books it is easily explicable when it is remembered that treatises by living authors are not strictly citable as authorities, and that it is only when those writers have passed over to the majority that their work becomes invested with a quasi-authoritative value. In the passage above referred to, the Master of the Rolls was thus simply saying that the learned author of the treatise on torts was still happily amongst us, and, as we all know, giving fresh evidence of his amazing vitality by bringing out within the last few days a new edition of the companion volume on "Contracts." In his "First Book on Jurisprudence," Sir FREDERICK adverts to the subject of books of authority, and tells us that Sir MICHAEL FOSTER'S treatise on "Crown Law," which was published in 1762, is the latest book to which authority in the exact sense can be ascribed. In these days, however, the old rule excluding the citation of the writings of living authors is much more honoured in the breach than in the observance.

Ceremonial in Court.

IF we may adapt the familiar phrase of STERNE, we may say "that they order this matter better in Scotland," the "matter" in this case being the ritual attending the formal installation of a new judge or a new law officer. With us, the ritual is of the baldest; in Scotland it is elaborate and spectacular and on that account gives great pleasure to the various relations and friends of the new appointee as well as to the general public. On such occasions, and there have been three or four within the last few weeks, the new judge or law officer presents his commission to the court; it is read by the clerk; the oaths are administered by the Lord President, who then invites his new colleague, in the case of the judge, to take his seat on the bench, or, in the case of a new Lord Advocate or Solicitor-General, to take his seat within the bar. Till comparatively recent times the titles of the Scots judges were usually territorial, in accordance with old traditions when most of those appointed to the bench were landowners and were habitually called by the name of their estates—a practice which, in later days was scoffed at by LORD COCKBURN who, when his brother-in-law, THOMAS MAITLAND, was promoted to the bench and chose to be known as LORD DUNDRENNAN, expressed the hope that he would be the last "who will have the infirmity of changing his own name and taking that of his clods on mounting the judgment seat." MAITLAND was, however, by no means the last to follow the old custom, but now it would seem that the former usage has gone, and the present race of judges are content to be known by their patronymics prefixed by the title "Lord" which was given them by JAMES V.

Local Administration.

A NUMBER of interesting suggestions and statements were made at the recent annual meeting of the Institute of Municipal Treasurers and Accountants in regard to the size of local government units for modern administrative needs. Mr. F. W. RATTENBURY, President of the Institute, expressed the opinion that some of the services now carried on by local authorities might, before long, be changed so as to be operated on a regional basis. In several services he thought that existing forms of control were no longer justified. Elementary education should, he said, be administered over larger areas. The present basis whereby borough councils of over 10,000 population and urban district councils of over 20,000 towards the beginning of the present century are local education authorities, while elsewhere the county council is responsible (county boroughs operating, of course, their own areas), is somewhat anomalous, particularly in view of the different arrangements for purposes of higher education. Reverting to Mr. RATTENBURY'S statements, it was thought that fire brigades should be co-ordinated under wider control where the density of population justified that course; that sewage disposal for town areas should be planned on a large scale according to watersheds; and that separate police forces were anachronistic. In these days of rapid communication it was urged that a national police force was needed. The provision of sewage disposal administrative units in light of the configuration of the country would appear to involve a return to the *ad hoc* authority in this instance. This has, however, been effected for land drainage quite recently and there appears to be no particular objection to the system for services which cannot be made to depend wholly upon factors which must determine the performance of other administrative needs. The speaker further opined that existing county boundaries are not perfect, and that a justification for the independence of all the county boroughs was called for. The annual report

of the council, which was adopted at the meeting, indicates that careful consideration has been given to a resolution passed by the Monmouthshire Urban District Councils Association suggesting that the Institute should prepare a draft scheme for the revision of the whole system of government grants, in conjunction with the amendment of the block grant formulæ. The council states, however, that it was not possible for the Institute to undertake the preparation of such a scheme now. A motion that the council should be asked to prepare a scheme of grants to be submitted to the Ministry of Health, providing for the equitable distribution of the burden in respect of national and semi-national services imposed on local authorities, was defeated.

Uniformity in Road Control.

THE proposed transfer from the county councils to the Minister of Transport, as highway authority, of full responsibility for the maintenance and improvement of some 4,500 miles of trunk roads, announced last Monday in the House of Commons by Mr. HORE-BELISHA, should have important effects on the problem of road safety. The Minister of Transport indicated that it was the intention of the Government to lay before Parliament in the autumn a Bill to effect this transfer from 1st April, 1937, in England and Wales, and from 14th May, 1937, in Scotland. Local authorities concerned are being communicated with by the Ministry and their co-operation and assistance is being invited in regard to the administrative features of the scheme, while it is proposed that the financial arrangements arising out of this transfer of administrative responsibility shall be discussed with representatives of local authorities in connection with the revision of the general Exchequer contributions under the Local Government Act. Roads in the metropolitan and county boroughs are not covered by the proposals. The Minister of Transport explained in answer to a question concerning their exclusion, that the situation in county boroughs is quite different from what it is in counties. The classified roads in the county boroughs were, he said, already block granted because it was practically impossible to distinguish them from other roads, as they had such a high local value. He suggested that the general solution of the matter was to make by-passes, in which case they would come under the scheme.

Historic Buildings under Town Planning Schemes.

REFERENCE was made in a recent paragraph in *The Times* to the correspondence which has taken place during the past year between the Society for the Protection of Ancient Buildings and the Ministry of Health with regard to the practicability of using town planning powers for the preservation of buildings of special agricultural or historic interest. It appears that no planning authority has submitted an order for approval for, it is thought, financial reasons, since compensation would almost certainly have to be paid in respect of any building scheduled. The society has, however, been assured by the Minister that the possibility of improving the surroundings of notable buildings is always borne in mind when schemes are submitted to him for approval, and that the inspectors who hold inquiries in the various districts are on the look-out for buildings or natural features which deserve protection. Indeed, the possibility of improving the surroundings of, and approach to, ancient buildings of historic or architectural interest, or of preventing further deterioration, was one of the points which, it was urged in a recent circular issued by the Ministry, should be borne in mind in zoning, street improvement or slum clearance schemes contemplated in the vicinity of such buildings. Many towns, it was pointed out, contain ancient buildings of the character in question, but, not infrequently, buildings of an inferior quality detract from and encumber the approach to them. The Society for the Protection of Ancient Buildings expresses the hope that members will do everything in their power to forward this aspect of its work.

Retrospective Taxation.

THE Chancellor of the Exchequer recently moved an amendment, which was agreed to, when the Finance Bill was being considered on Report, to the effect that the provisions of cl. 18 for preventing the avoidance of income tax by transactions resulting in the transfer of income to persons abroad should not, for the year 1935–36, operate to render income chargeable to tax at the standard rate, but that sur-tax should be assessed and charged as if any income, which would but for the amending proviso have been charged under the clause, had in fact been so charged. The acceptance of his amendment followed the rejection of another in the moving and support of which the principle of retrospective taxation was criticised. The principle which re-opened an already closed assessment could not, it was urged, be anything but thoroughly bad. There were a great many people who believed that cl. 18 had every justification, but there was no justification for making the assessment retrospective. Another speaker referred to the matter as one of principle, not of amount or evasion, and expressed the hope that the principle of retrospective taxation generally would not be introduced. Mr. CHAMBERLAIN intimated that there was an answer to the contention of those who, though not prepared to defend the practices which had made the clause necessary, thought the sacrifice involved in allowing those who had engaged in such expedients to escape for one more year worth making in order to preserve the principle that legislation should not be retrospective. All the same, he had come to the conclusion that the argument against retrospection ought to be given consideration, and he moved the amendment above indicated accordingly. But he did not consider that in future people would be entitled, if they found new methods of avoiding taxation of a similar character to those dealt with in the Bill, to think that they were protected from now on from retrospective legislation. He gave them, he said, fair warning, and after that fair warning they would have no reason to complain if retrospective legislation should be found necessary in this particular class of case.

Other Amendments.

ANOTHER amendment to the same clause provides that a person may satisfy the Special Commissioners "in writing or otherwise" with a view to securing exemption from its provisions that the transfer of capital abroad was not made for the purpose of escaping liability. The foregoing words made it clear that personal attendance before the Commissioners will not necessarily be required in all cases. An amendment moved by Mr. Chamberlain and agreed to in regard to the provisions of cl. 21, which deals with income settled on children, exempts income paid for the benefit of a child of the settlor for any year of assessment in which the aggregate amount of the income does not exceed £5. It was indicated that the amendment had been introduced at the instance of the National Savings Committee, who made representations with regard to the effect of the clause as originally drafted on the savings of children. The effect of the amendment, the Chancellor of the Exchequer explained, would be that a child could accumulate savings by way of gifts from parents up to an amount which would produce £5 a year, or of £200 in the Post Office or trustee savings banks, and no charge would thereby be incurred by the parent. The amendment had the additional advantage that it would not be necessary for the Revenue to analyse these small payments. The Attorney-General moved a series of amendments to cl. 18, which were agreed to, to give effect to a suggestion made by various members in Committee that a provision for an appeal from the Special Commissioners to the Board of Referees on questions of fact arising under the proviso to sub-s. (1) of the clause should be exercised, and that this matter, as other matters of fact, should be left in the hands of the Special Commissioners with a right of appeal on questions of law to the courts.

Tax Avoidance.

FURTHER reference was made to the tax avoidance provisions of the Finance Bill in the House of Commons last Friday week, when the Bill was read a third time. The contents of these clauses have been dealt with at some length in these columns and need not be further alluded to. Mr. W. S. MORRISON, Financial Secretary to the Treasury, confessed that he found the clauses were very difficult indeed to expound, but he urged that the problems with which they were concerned were of an exacting character, because the transactions at which they struck were of a highly artificial nature and effected under documents using legal language. The Chancellor of the Exchequer had, moreover, been sedulous to avoid striking at legitimate trade, financial, or family interests, and this had led to complications in the language of the clauses, which could have been avoided by a less scrupulous approach to the problem. Mr. MORRISON drew a distinction between the last of the evasion clauses—that dealing with educational trusts—and the rest on the ground that many of these trusts were entered into not only with the sanction of the law but almost with the encouragement of the law, for the purpose of family security. The Government, he said, had done their best to secure that those who had entered into these trusts with that motive should not have their position worsened, but they had secured that in future anyone entering into these trusts must be taxed. Dealing with the problem generally, the Chancellor of the Exchequer said, with regard to these provisions, that constant laying down of fresh regulations interfering with the ordinary course of business was not a desirable thing in itself. They might be driven to it when they found that unless they put a stop to this sort of thing they were losing a substantial amount of revenue, which had to be made up by those who did not care or did not know how to adopt methods of this kind. He claimed that the Government had covered in this legislation all the principal known forms of tax avoidance which were of serious importance. Reference was made, however, to other methods hitherto not sufficiently expensive or subversive of the revenue to make it essential that they should be stopped. People who indulged in these practices must not, Mr. CHAMBERLAIN said, consider that because this time the Government had not passed restrospective legislation they would be debarred from so doing in the future.

Sunday Trading.

SOME reference should be made to new clauses recently incorporated into the Shops (Sunday Trading) Bill in the House of Lords. One of them makes special provision for holiday and seaside resorts. THE EARL OF MUNSTER, who moved it, said that, on the third reading debate in the House of Commons, the Under-Secretary to the Home Office expressed the view that the needs of seaside and other resorts must be further considered. Inquiries had been made of seaside resorts and the Association of Health and Pleasure Resorts, and in consequence it was proposed to give the local authorities concerned power to exempt all or any of the transactions set out in a schedule he would propose. This relates to any articles required for the purposes of bathing and fishing, photographic requisites, toys, souvenirs and fancy goods, books, stationery, photographs, reproductions, post-cards, and any article of food. Orders legalising the sale of one or more of these classes of goods cannot be made unless two-thirds of each class of shopkeepers affected are in favour of the same. A new clause, substituted for the former cl. 5, makes provision for Jewish traders, the main difference between the two being the substitution of a system of registration by the local authority of shops to be kept open for the notices originally prescribed. Another new clause provides for the exemption from the provisions of the Bill of "the sale by fishermen of freshly caught fish (including shell fish) and the sale at a farm, small-holding, allotment, or similar place, of fresh produce produced thereon." By a further amendment, the word "fresh," as applied to the produce of farms, etc., was omitted; it being explained by LORD PHILLIMORE, who moved the amendment, that the restriction of the exemption to "fresh produce" might prevent farmers and allotment-holders from selling honey, jam, butter, cooked and dressed poultry, and eggs. Small producers who had no regular markets, should not, it was urged, be deprived of their trade at week-ends with motorists. The Federation of Women's Institutes had asked that such an amendment should be made.

River Pollution: New Bill.

THE Public Health (Drainage of Trade Premises) Bill was read the third time and passed in the House of Lords last Thursday week. LORD GAINFORD, who moved the third reading, said that the Bill (which relates to the discharge of trade effluents into the sewers of local authorities instead of into rivers and streams) carried out the recommendations of several Commissions, and that great efforts had been made by local authorities, traders, and all those interested in water and the use of water, to secure the enactment of the principle of the Bill. It was a private Bill, promoted by a great number of organisations and associations which had approved its provisions and seen to it that every interest was properly protected. The Bill would, it was argued, improve the condition of streams and rivers and prevent their further pollution. It would, moreover, prove of great advantage to the general community as a measure for the preservation of amenities. Stress was laid on the particular advantage that would accrue to hundreds of thousands of working men who fished for coarse fish in rivers which were becoming more and more impure through the discharge into them of trade effluents. THE EARL OF LISTOWEL expressed the hope that the Government would provide facilities for the passage of the Bill through the House of Commons. VISCOUNT GAGE could give no undertaking on that point, but stated that the fact that the Bill had been prepared in consultation and co-operation with the Ministry of Health showed that the Government viewed it with a certain amount of sympathy.

Correspondence used in Court.

IN the Court of Appeal last week the Lords Justices commented on the irregular manner in which, too frequently, bundles of correspondence, often extremely bulky, were being used in that court with no indication whether in the court of first instance the whole of the letters, or which of them, had in fact been read and so made part of the relevant documents for consideration. Each of the Lords Justices emphasised the necessity of having the letters which were actually put in identified, or, if the whole bundle was to be treated as in, it should be clear that counsel on both sides had specifically agreed to this arrangement. As Lord Justice GREENE pointed out, it might well happen that letters were being read to the Court of Appeal which in fact were never called to the attention of the trial judge, or were even treated as being in. The practice of reading the whole correspondence was often animadverted upon by the late Lord Justice SCRUTTON; it may, however, be in some cases necessary to endure this infliction: but it is surely essential that when a case reaches the Court of Appeal the members of that tribunal may be quite clear which letters in a bulky correspondence were actually made part of the proceedings, and therefore calling for careful consideration.

Recent Decisions.

IN *Oliver* v. *Dickin* (*The Times*, 3rd July) the court granted an injunction to restrain the defendant from infringing the plaintiff's copyright in a literary work concerning the mastiff dog. BENNETT, J., intimated that the use made by the defendant in a book of an article by the plaintiff, published in the *Kennel Gazette*, was such as to render an injunction the appropriate remedy. Damages to the amount of 20s. were also awarded.

Registrar's Discretion on Taxation.

Upon what principles is a county court judge entitled to review the decision of the registrar as a taxing officer? If the judge thinks that the registrar has allowed too much, or too little, can he substitute his own figure?

This matter was discussed and finally settled in the recent case of *White* v. *Altrincham Urban District Council* (1936), 52 T.L.R. 441; 80 Sol. J. 365.

W., a workman, appealed from an order of the judge upon the question of an allowance to doctors for attending an arbitration under the Workmen's Compensation Act, 1925.

W., having lost his claim, was ordered to pay costs. The registrar taxed the employers' bill upon Scale B, the scale applicable. The employers had called two surgeons and one neurologist and had asked for two fees of eight guineas each, and one fee of ten guineas. The registrar reduced the fee in each case to three guineas. Objections were made that the sum was not reasonable, but the registrar replied that he had, in exercising his discretion, considered all the relevant facts. On Scale B the qualifying fee is one to three guineas, and the fee for attendance is one to two guineas per day (Annual County Courts Practice, 1936, p. 1094). The employers appealed to the judge, who increased each item from three to seven guineas. The workman appealed. The judge, in his note to the Court of Appeal, stated that he had often exercised this discretion, and in most of his circuits he had allowed five to eight guineas for such medical witnesses.

Slesser, L.J., said that the costs of proceedings under the Workmen's Compensation Act are in the discretion of the judge: para. 7 (1) of Sched. 1, Workmen's Compensation Act, 1926. Para. 7 (2) provides that the costs must not exceed the limits prescribed by rules, must be taxed as prescribed, and that the taxation may be "reviewed" by the judge.

The Workmen's Compensation Rules, 1926, deal with costs in rr. 76–78. By r. 76 (1) costs, in default of agreement, must be taxed according to the scale that the judge directs, but if there is no direction, then according to county court scale and County Court Rules, Ord. LIII, rr. 7 and 8. By r. 78 (2) a review of taxation by a judge shall be heard on the evidence before the registrar and no further evidence shall be received on the review, unless the judge otherwise directs.

Order LIII, r. 7, states that an order of the judge for any discretionary items or any particular costs must be a special order given on the facts of the case, and not a general order. The registrar has no power to allow an item disallowed by the judge and the registrar's order is subject to review by the judge. Rule 8 (1) refers to an allowance of special items in certain cases, in the discretion of the judge or registrar. There was no special order in this case and so rr. 7 and 8 (1) do not apply.

Rule 8 (2) provides as follows:—

> "Where costs are taxed under column B or column C, the amounts allowable under any item in the scales (including . . . the allowances to expert and scientific witnesses) may, regard being had to the length, difficulty or importance of the case, be increased by a reasonable amount at the discretion of the registrar (to be exercised in accordance with Rule 23 of this Order), subject to review by the judge, or by special order of the judge."

Now r. 23 deals with "Discretionary fees and allowances," and states that all discretionary allowances, "unless otherwise provided," should be allowed at the registrar's discretion. He must consider the other fees and allowances to the solicitor and counsel, the nature of the action, the amount involved, the interest of the parties, the persons who bear the costs, the conduct and costs of the proceedings, "and all other circumstances." This rule resembles the principles of taxation applicable in the Supreme Court of Judicature and set forth in Rules of the Supreme Court, Ord. LXV, r. 27 (38).

The Court of Appeal have now held—in the words of Slesser, L.J., that—

> "The judge had no power to disturb the discretion of the registrar expressly given him by the rule on a mere *quantum* unless the registrar has purported to exercise that discretion in a way not warranted by law."

This has been the principle applied in the superior courts both before and after the Judicature Act, and the principle applied in the county court is the same.

Three decisions before the Act, and two after the Act, may be shortly mentioned.

1. In *Alsop* v. *Lord Oxford* (1833), 1 My. & K. 564, a solicitor asked for £54 for a journey made to London at his client's request to compare an abstract of title with the title deeds. He had been occupied sixty hours, he stated, in the work, and had been away thirteen days. The Master disallowed the item, on the ground that the work could have been done by a London agent. He allowed £20. Sir J. Leach, M.R., said:—

> "Generally speaking, the decision of the Master on taxation is final; he is the sole judge of the fact, whether the business has been done, and of the proper charge to be made for it . . . The court will only interfere where the Master acts upon some mistaken principle" (p. 566).

2. *In re Catlin* (1854), 18 Beav. 508. Sir J. Romilly, M.R., early in an elaborate judgment, said:—

> "It is admitted, on both sides, that this court can only be called upon to determine on the propriety of allowing or disallowing items which involve some principle, and not where a question only of *quantum* arises" (p. 509).

3. *Hill* v. *Peel* (1870), L.R. 5 C.P. 172, dealt with the costs of an election petition, taxed, under the Act of 1868, on the same principles as costs between solicitor and client in a suit in Chancery. Said Bovill, C.J.:—

> ". . . where it is a question of whether the Master has exercised his discretion properly, or it is only a question of the amount to be allowed, the court is generally unwilling to interfere with the judgment of its officer . . . unless there are very strong grounds to show that the officer is wrong in the judgment which he has formed" (p. 181).

That case dealt with the fees of leading counsel and of his junior, of consultations, and of preliminary expenses apart from "Instructions for brief."

4. The short case of *O'Gilvie* v. *Massey* [1910] P. 243, illustrates the modern practice.

It was a probate action tried before Bargrave Deane, J., and a special jury. The trial had lasted several days and the learned judge pronounced for the will. The plaintiffs having claimed £3,424 in costs, were allowed £2,060 on taxation. The plaintiffs took out a summons to review before the judge, who increased the fees allowed to leading counsel and the two junior counsel in proportion. Leave to appeal having been refused, this was granted by the Court of Appeal who restored the decision of the Master.

Lord Cozens-Hardy, M.R., said:—

> "The taxing master is the person whose duty it is to decide questions of *quantum*, and it is not right for the judge to interfere in such a matter" (p. 244).

And Buckley, L.J., said:—

> "On questions of *quantum* the decision of the taxing master is generally speaking final. It must be a very exceptional case in which the court will ever listen to an application to review his decision . . . If a question of principle is involved it is different . . ."

5. *Slingsby* v. *Attorney-General* [1918] P. 231, was such an "exceptional case," in which a summons to review, refused by the judge, was allowed by the Court of Appeal, and the bill was sent back to the registrar.

An infant sought a declaration of legitimacy. On appeal, he failed and his next friend was ordered to pay the costs (party and party). £1,365 was claimed as a lump sum under "instructions for brief," of which the registrar taxed off £630. The court held that the bill was improperly made out and that the registrar had not the proper materials before

him on which he could exercise his discretion. A further lump sum charge of £3,890 was made for foreign lawyers, of which the registrar allowed £1,993. The court held that he had proceeded on a wrong principle. It was for the party bringing in the bill to prove that it was fair and reasonable; it was not for the other side to show that the bill was excessive. The mere fact that it was paid does not prove that it was reasonable. The bill was sent back to be "remodelled" by the solicitor, with details, whereupon the registrar could exercise his discretion.

6. Greene, L.J., observed, in his judgment in the present case of *White* v. *Altrincham Urban District Council*, that during the argument he had, at one time, thought that since Ord. LIII, r. 8 (2) made the decision of the registrar subject to review by the judge, this must include the question of *quantum*. On consideration, however, he had come to the conclusion that when the county court rules were framed, the principles of review of taxation were well established, and would not, without a clear intention to the contrary, have been changed (at p. 443 of 52 T.L.R.).

Scott, L.J. by a longer and more circuitous reasoning, came to the same conclusion, giving a valuable analysis of all the relevant provisions and cases (pp. 444–446).

The appeal raised "a question of general public importance because it affects the policy of our legislation about the costs of litigation in the county courts, or at any rate certain of the statutory means by which those costs are kept low." It indirectly affected "the fixed scale system which . . . is the basis of all county court taxation" (at p. 444).

County court provisions, he continued, were passed in the nineteenth century "in the light of the practice and principles followed in the superior courts." The learned Lord Justice examined "the High Court position" under R.S.C., Ord. LXV, r. 27, reg. 41, in the light of the decisions referred to above. The general difference between taxation in the High Court and taxation in the county court is that in the one case, "*quantum* is left at large" to the overriding discretion of the taxing officer, whereas in the other, costs are fixed within limits by scales and items. Does county court taxation follow the analogy of the High Court:—

> "in which case the discretion of the (taxing officer), properly exercised, is final, or does it substitute a new system in English law under which the judge may overrule the discretionary view of the courts taxing officer and replace it in his own discretion with his own view?" (at p. 445).

If it was intended to alter the well-known principle, the intention to do so would surely have been expressed in clear language. But the similarity of phrasing between the High Court and the county court "review" shows that no change could have been intended. Moreover—

> "such a change would be contrary to the spirit of our county courts legislation, which is to encourage speedy and cheap justice—as appears, for instance, in the provision that there shall be no appeal from the judge on fact but only on law—and in the provisions . . . which within rather narrow limits fix the *quantum* of costs items" (*ibid.*).

He concludes his exhaustive survey of the rules of Ord. LIII with the statement that "a county court judge has been given no wider discretion than a High Court judge on a review of the taxation . . And I have the additional satisfaction of feeling that this conclusion conforms to the general policy of Parliament with regard to county courts legislation" (at p. 446).

Mr. Albert Russell, K.C., former Solicitor-General for Scotland, was in Edinburgh last Tuesday installed as a Senator of the College of Justice in Scotland in succession to the late Lord Murray. Lord Aitchison, the Lord Justice-Clerk, presided in the absence of the Lord-President. The King's letter of appointment was read and Mr. Russell, having taken the oaths and been robed, ascended the Bench with the judicial title of Lord Russell.

Company Law and Practice.

What is a Charge on Book Debts?

Among the charges which s. 79 of the Companies Act, 1929, requires to be registered is "a charge on book debts of the company": and though the phrase is simple enough in itself it is not always easy to decide whether a particular transaction is or is not a charge on book debts. Two questions have to be considered: First, is the transaction a charge at all? Secondly, does the subject-matter of the transaction consist of book debts? The answer to the first question does not perhaps in the light of the authority which I shall mention shortly present very great difficulty, but as regards the second, though we can find a general description of what are book debts and a few specific decisions as to whether a particular chose in action is a book debt, it does not seem possible to formulate a precise test capable of application to every case and inevitably yielding the definite answer "yes" or "no" to the inquiry "Is this a book debt?" For the purpose of s. 79, an assignment by way of charge of "all the book debts" of a company would, of course, require registration; the difficulty arises or may arise when the security given by a company is over a particular debt or the rights of the company under a particular contract. The practical answer in every case may well be "If in doubt, register"; but there are often weighty considerations from the commercial point of view which render registration undesirable.

The first part of our inquiry as to the meaning of "a charge on book debts" we had better perhaps direct to the answer to the question "What are book debts?" In *Shipley* v. *Marshall*, 14 C.B. (N.S.) 566, Williams, J., spoke of a book debt as "a debt arising out of a transaction which in the ordinary course of . . . business would find its way as an entry into any of the trade books." In *Official Receiver* v. *Tailby*, 18 Q.B.D. 25, at p. 29, Esher, M.R., said: "I apprehend that the meaning of the term 'book debts' is confined to debts arising in a business in which it is the proper and usual course to keep books, and which ought to be entered in such books, though I do not think that the term is confined to debts which are actually entered in the books." These are the only positive descriptions of a book debt that I have discovered in the reports, and their practical result seems to be to make the question depend on the particular facts of each case—was it a debt which, in the ordinary course of the business of the company, should have been entered in its books? In many cases the answer to the question may be simple, but in others (though I do not profess any knowledge as to whether in any business a particular debt should or should not be entered in its books) the facts might make this test difficult to apply. Suppose, for example, a company enters into an agreement to act as selling agent on the terms that as remuneration for its services it is to retain a certain percentage of the purchase moneys received by it: the company then assigns the benefit of that agreement and the moneys receivable thereunder as security for a debt. Would that assignment be a charge on book debts? There is really no *debt* arising under the agreement of which an entry can be made in the company's books. Debts to the company may become due from purchasers, but strictly those would arise on the sale to the purchaser and not under the agreement, and though it may well be said that those are book debts, yet they are not what the company has charged. What it has charged is the commission coming to it under the agreement, which, as I have suggested, does not seem to be a debt which can be entered in the company's books. Where in such a case is the charge on book debts? This is the sort of case in which *abundans cautela* suggests registration, though one may not be convinced that a charge on book debts has been created.

To look for a moment at some specific decisions. In *In re Law Car & General Insurance Corporation Limited* [1911]

W.N. 91, there was a reinsurance contract between a company, X, and X's brokers. The Company issued policies to X and X was to pay the brokers the premiums in each month, less the amount of the claims accrued due from the company to X. The brokers were to pay the amount into a bank to the joint account of the company, X and the brokers as trustees, in trust for the payment to X of any claims due from the company. Whenever the monthly aggregate of claims due exceeded the premiums due from X, the excess was to be paid by the trustees to X out of the joint account.

On the liquidation of the company it was contended that the premiums accruing due from X were book debts of the company and that as by the contract they were assigned to the trustees to secure X against claims they had been charged by the contract, and therefore the contract should have been registered. Swinfen Eady, J., held that this was not so, for under the contract the premiums were not payable to the company but to the trustees, and were never the company's property and could at no time be said to be book debts owing by X to the company. His decision was affirmed by the Court of Appeal [1911] W.N. 101.

In *Dawson* v. *Isle* [1906] 1 Ch. 633, Warrington, J., held that where a bill of exchange was received in the ordinary course of business by X, accounted for in the books of the business as a receivable bill and handed to bankers to be discounted, it was, until actually discounted, a book debt due to X. That case, however, had nothing to do with the question of registration of a charge on book debts, and it should be noted that s. 79 (6) of the 1929 Act now provides that "where a negotiable instrument has been given to secure the payment of any book debts of a company the deposit of the instrument for the purpose of securing an advance to the company shall not for the purposes of this section be treated as a charge on those book debts."

In *Ludenburg & Co.* v. *Goodwin, Ferreira & Co., Ltd.* [1912] 3 K.B. 275, a company which had consigned goods to customers abroad obtained an advance from the bank and in return gave the bank as security a mortgage on the goods so far as it could do so and an hypothecation of the proceeds of their sale. The property in the goods had in fact already passed to the consignees. It was held that the proceeds of the sale of the goods constituted a book debt and the hypothecation a charge on such book debts requiring registration.

In *In Re George Inglefield, Ltd.* [1933] 1 Ch. 1, Eve, J., held that the rentals payable to a company under hire-purchase agreements of furniture were book debts of the company. The Court of Appeal, in reversing Eve, J.'s decision on the point as to whether there had or had not been a charge created, expressed no opinion on the question whether or not these rentals were book debts. And finally, in *Ashby Warner & Co., Ltd.* v. *Simmons* (1936), 2 All. E.R. 697, sums payable to a building company under a building contract on certificate were held by the Divisional Court to be book debts of the Company, though again the Court of Appeal did not consider it necessary to decide the point.

None of these cases helps us to arrive at any definition of "book debts," and I have mentioned them only as illustrative of what on particular facts are and are not "book debts." It does not seem possible to carry the matter any further than the description of book debts given in *Shipley* v. *Marshall*, *supra*, and by Lord Esher in *Official Receiver* v. *Tailby*, *supra*; and that description leaves us, as I have said, to consider the facts of each individual case, and it may be in certain cases to meet difficulties not capable of a ready solution. But we have still to consider the other question, namely, the meaning of the word "charge" in the phrase "a charge on book debts." Here, again, in a great number of cases where the transaction is clearly that of an assignment of book debts by way of security, no difficulty arises—the assignment must be registered. The difficulty which has arisen in specific cases is whether on the facts there was a charge or an out and out transfer. In *Saunderson & Co.* v. *Clark*, 29 T.L.R. 579, the company, in consideration of an advance by the bank, executed an assignment to the bank of so much of a book debt owing to the Company "as may be necessary to indemnify" the bank. This assignment was not registered, and on the liquidation of the company it was contended that the assignment was absolute and not by way of security. Lush, J., held, however, that, as a matter of construction, the assignment was given as an indemnity or security, and that in any event the transaction was in substance a mortgage. "It was impossible for the parties to a transaction by way of mortgage or charge to alter the effect of [s. 79] by adapting a form which did not accord with the real transaction between them." In *In re George Inglefield, Ltd.*, to which I have already referred, the Court of Appeal held that on the construction of an assignment by a company of goods subject to, and moneys payable under, hire-purchase agreements the transaction was one of purchase and sale and not of mortgage or charge. Romer, L.J., at p. 27 of the report, points out the essential differences between a transaction of sale and a transaction of mortgage, and a consideration of these differences will be of great assistance in many cases in deciding whether an assignment of property—be it of book debts or of other property—is in the nature of a sale or of a mortgage.

Finally, there is the recent case of *Ashby Warner & Co., Ltd.* v. *Simmons*, *supra*. There the company, which was entitled to future payments under a building contract, authorised the debtor to pay a part of this sum to X, to whom the company itself was indebted. It was contended on behalf of a debenture-holder of the company that the effect of this was to create an equitable assignment of a part of the sum owing to the company and hence a charge on a book debt of the company. The Court of Appeal held that there had been an absolute assignment of a part of a debt which was to fall due in the future, effective as an equitable assignment of a part of that debt; that neither the document nor the surrounding circumstances disclosed any intention that the transaction was to be one of charge; and that such an assignment was not within the scope of s. 79, which deals only with "security documents" or "documents of hypothecation." The point which clearly emerges is that the word "charge" in s. 79 bears the strict meaning of mortgage or hypothecation and does not cover those cases in which a person who has received a total or partial assignment of a debt operating in equity only is said to be entitled to a "charge" upon the fund: for "charge" in this latter sense involves no conception of mortgage or hypothecation, but means that the assignee has an equitable right against the fund and not merely a personal right against an individual; and such an equitable right is not a charge within the meaning of s. 79.

A Conveyancer's Diary.

[CONTRIBUTED.]

Profits made by Trustees.

THERE is a well-known rule that a trustee may not make a profit out of his trust. It is, of course, highly salutary, in most of its applications. But in a certain number of cases it is desirable for the instrument creating the trust to exclude the rule for some purposes. It may be useful for the draftsman to consider some of the following points.

The most familiar way in which the rule is excluded is, of course, by the "solicitor-trustee's charging clause," by which it is provided that a solicitor or other professional person being a trustee of the trust in question may act in his professional capacity in relation to the affairs of the trust and charge for his services. Such a clause has almost become common form, and would clearly authorise the solicitor-trustee or the accountant-trustee doing work as solicitor or

accountant to the trust, and charging for it. But how far does the clause, in the form in which it is usually found, extend? For instance, if one of the trustees is a barrister, may he charge a conference fee every time the trust solicitors call on him on the business of the trust, or only when they call to discuss a point of law, and not when the problem is to choose investments? In fact, such a charge is probably rarely made at all, but the point may easily arise. Again let us suppose that the testator was a builder, and died in the middle of developing an estate. His solicitor will obviously know a great deal about the business, as the legal side of it will have passed through his hands. If the solicitor is a trustee, he may well be the most suitable person to run the business. But can he charge, under the ordinary charging clause, for his services as manager? It seems extremely doubtful whether he can; it is not his own profession: he will not even have "his usual professional charges" therefor, which are what he is empowered to receive. In wills where such a situation is likely to arise, it will be well to have express provision. In the absence of it, the prudent solicitor trustee will resign from the trust before taking up his appointment as manager.

Again, there is the familiar case of directors' fees. Where one of the trust assets is a block of shares in a company, it is very desirable that one of the trustees should go on the board, if he gets a chance, in order that the estate may be represented there. Obviously he is not going to involve himself in such work for nothing, and if he cannot keep his fees, the estate may lose the benefit of his voice on the board. Of course, if he can get his necessary qualification shares from elsewhere, there will be no difficulty. But the case must often arise, especially with private companies, that there are no such shares to be had. The trustee must then rely for his qualification upon the trust shares. If he does so, it is not absolutely clear that he may retain his fees. It seems to be usually supposed that the law was settled by the decision in *Re Dover Coalfield* [1908] 1 Ch. 65, and more or less definite statements appear in the text-books to the effect that this case established that the fees might be retained. But it must be remembered that there was an earlier case in the contrary sense: *Re Francis*, 74 L.J. Ch. 198. Moreover, there are *dicta* of Russell, J. in *Williams* v. *Barton* [1927] 2 Ch. 9, at p. 12, which throw some doubt on the *Dover Case*. The learned judge pointed out that the facts were rather peculiar: the director in question "had not used his position as a trustee for the purpose of acquiring his directorship. He had in fact been appointed a director before he became a trustee of the shares." His lordship, therefore, did not follow the *Dover Case*. At the same time it must be remembered that *Williams* v. *Barton* was not actually a case on directors' fees, and that the remarks of the learned judge were not necessary to its decision, but arose out of certain contentions of counsel.

On the whole, however, it would probably be prudent in a case where this point might arise, for the draftsman to provide expressly for a trustee-director to keep his fees. Such a provision is in itself desirable, and if it is in fact unnecessary as the law stands, it will, at worst, be harmless. It has to be remembered that the trustee-director cannot escape by the easy way of resignation from the trust which is open to the trustee-manager; for if he does so, he ceases to hold the trust shares, and thus *ex-hypothesi* has no qualification as a director.

There is another point in connection with the "charging clause" which should be borne in mind. It would appear to be improper to insert the clause in a settlement of an infant's property under the Infants' Settlements Act, 1855, and it does not appear probable that the court, whose sanction is, of course, requisite under the Act, would allow such a clause to pass. For, after all, the clause is really a disposition of part of the trust property away from the *cestui que trust*. This proceeding is clearly in order where the settlor is an adult, for a man can do what he wills with his own. But it is not at all the same thing where the property in question belongs to an infant whose interests have to be guarded jealously in every way.

Next, let us consider the position of a solicitor-trustee where there is no "charging clause." He cannot employ and pay himself as solicitor to the trust. Nor can he employ and pay his firm: *Re Gates* [1933] Ch. 913. This is the position even where he is drawing a fixed annuity out of the firm irrespective of its profits: *Re Hill* [1934] Ch. 623. But he can make an arrangement with his partners, so that if they all do the same by one another, the result is the same in the long run as if the firm were employed. As Greer, L.J., pointed out in *Re Hill* (at p. 631), "there have been cases in which it has been held that he may make one of his partners an independent solicitor." The learned lords justices referred to *Clack* v. *Carlon*, 30 L.J. Ch. 639, where such a thing was done. Wood, V.-C., said in *Clack* v. *Carlon*—quoted by Maugham, L.J., in *Re Hill*, at p. 633—"I confess I see no reason why such an arrangement should not be made, or why a trustee should not be able to say to his partner 'Quoad this transaction we are not in partnership.' He may then employ his partner in the same way as he may employ his town agent, and the partner will stand in the same position as anybody else." Where such an arrangement is made it will be well to make a memorandum in writing embodying it at the beginning of the transaction, so that if the payments are questioned later there may be a clear defence. But it will also be useful to provide the machinery for all such arrangements in the partnership deed. Such a clause would provide that in cases where one of the partners cannot charge (1) he shall not employ the firm, and (2) if he employs one or more of his partners individually the profit costs shall be carried to a special account, in which he shall not himself share. The clause should, however, not provide in mandatory form that he shall employ one or more of his partners in such a case, for that would be an improper fetter upon his discretion as a trustee to decide whom he will employ.

Finally, let us consider for a moment one point which is usually passed over in silence. Is there any real reason in natural fairness why a lay trustee should not be paid for his trouble? Of course, in the case of a small trust, one would hesitate to impose a new burden on the beneficiaries. But, in a large trust, it is, surely, a different matter. A fair number of trustees are, of course, able to glean legitimate profits, in the absence of provision for direct payment, in the way of directors' fees and payments for professional services. But the vast body of trustees do a great deal of work for nothing; indeed, they are often substantially out of pocket for their trouble, as it is a great nuisance to keep accurate accounts of such things as telephone calls and postage, which are constantly being incurred. And also, they spend a good deal of time to no personal profit. Many of them are content to do so; some are life tenants, others remaindermen, and as such, are sufficiently interested to work as trustees, for nothing. But there must be a great many trustees who are none of these things. The trust is a serious trouble and responsibility to them, to which, it must be admitted, they submit with a wonderful grace. But, even so, with the best will in the world, such trustees must naturally tend not to take more initiative or trouble than can be helped. Such a tendency is really semi-conscious, and reflects no discredit on the trustee. It is not sufficiently recognised that in these days the management of a considerable trust needs constant care and thought; investments are always having to be changed and watched. In such circumstances, if the trust can well bear it, it is, surely, not inequitable that the settlor or testator should be asked by his advisers whether they should not insert in the instrument a provision for the trustees to be paid. The beneficiaries will be repaid for their loss of income by more vigorous administration. Such payment should not

be in the form of a lump sum legacy. That is received and easily forgotten. Moreover, it is unfair to the trustees who succeed later to the trust and get nothing. An annual sum, small, perhaps, but appreciable, would often do a great deal of good.

Landlord and Tenant Notebook.

Parting with Possession and Sharing Possession.

It was not till the passing of L.P.A., 1925, that breach of a condition against alienation was excluded from the list of breaches which could not be the subject-matter of relief. Equity and the Conveyancing Acts never went as far; but it was the policy of the former to protect tenants as much as possible by interpreting covenants in their favour. The dictum in *Church* v. *Brown* (1808), 15 Ves. 258, that a covenant which forbade sub-letting of the demised premises was not broken by a sub-letting of part, is an example. Conveyancers responded, of course, by drafting the covenant so as to specify "the whole or any part"; that, one might say, was an easy one. More difficult was the task of safeguarding the interests of a landlord whose objects might be frustrated by the occupation of the property by third parties not claiming to be assignees or undertenants. Possible evasions of this nature account for much of the apparent prolixity which characterises some covenants. The case of *Roe d. Dingley* v. *Sales* (1813), 1 M. & S. 297, showed us a fair example: without going to the length of setting it out *verbatim*, I may mention that the proviso relied on spoke of leasing, demising, granting and letting the demised premises or any part or parcel of them, and of conveying, alienating, assigning or setting over the indenture or the estate therein, or any part thereof, to any person or persons whomsoever, for all or any part of the said term. The breach complained of was the letting of a back room; an agreement—how it came to be produced I cannot say—showed that though the tenant and the other party apparently intended to enter into some sort of partnership, the latter was to have that room "exclusive of" the tenant's family, and on that Lord Ellenborough held that the lease was forfeited.

One may contrast with the above case that of *Mashiter* v. *Smith* (1887), 3 T.L.R. 673. The report is somewhat sketchy, and may reflect the covenant—which it describes as a covenant not to assign and as a covenant not to demise as if the two expressions were convertible terms. Where it professes to quote the actual words of the covenant, the report says "not to assign wholly or in part any of the demised premises," but something must have been said about sub-letting if not about parting with possession, for what was complained of was the permission given to a travelling theatre company to "come upon" a field in consideration of weekly payments. The action was dismissed, the agreement not amounting to a "substantial parting with a substantial portion" of the premises.

Just before the L.P.A., 1925, altered the law for forfeiture dealing with this question, the subject was given some prominence in actions defended partly on the ground that no statutory notice had been served; this would be unnecessary if the covenant answered the description of a covenant against assigning, underletting, parting with possession, or disposing of the premises. What is of present interest is, of course, the effect given to particular covenants, and I think a modern counterpart of the comprehensive instrument which came up for discussion in *Roe d. Dingley* v. *Sales* is that which bound the tenant in *Jackson* v. *Simons* [1923] 1 Ch. 373, "not to assign, underlet, or part with the demised premises or any part thereof, or part with or share the occupation thereof or any part thereof." The demised premises were a tobacconist's shop in Central London, and the alleged breach was a verbal agreement by which the night club next door sold tickets in the front of the shop between 10.30 p.m. and 2 a.m. every night. Assigning and underletting were out of the question; parting with even part of the demised premises was negatived, and so was parting with occupation; but the thoroughness of the draftsman was rewarded when it came to sharing possession or occupation; for the defence admitted that this part of the covenant had been infringed, but the failure to serve a forfeiture notice was fatal to the plaintiff's case.

Undoubtedly the use of the word "share" is advisable when the landlord desires to prevent persons over whom he would be unable to exercise any influence from using the property. In *Russell* v. *Beecham* [1924] 1 K.B. 525, C.A., Atkin, L.J. (as he then was), observed that "part with" was different to construe in ordinary usage, while Bankes, L.J., said that it did not include a mere change of "occupancy." (The word "occupancy" sounds as if it were of recent, if not of transatlantic, origin; but it was used as long ago as 1771, in *Crusoe* v. *Bugby*, 2 W.Bl. 766). In another case, not a landlord-and-tenant dispute, it was held that individuals (who were joint tenants) could share occupation with a limited company (to whom they had wished to assign, the necessary consent having been refused): this was in *Rainham Chemical Works Ltd.* v. *Belvedere Fish Guano Ltd.* [1921] 2 A.C. 465—in which it was also said that the company could be—nay, were—in physical possession of the premises; but so were the tenants. Of course, these covenants must be construed rationally, as was observed by Bacon, V.-C., when dealing with *Corporation of Bristol* v. *Westcott* (1879), 12 Ch. D. 461, C.A., at first instance. Thus, I would not like to say that a covenant against sharing possession, if inserted in a lease of residential property, would be broken by an addition to the tenant's family; that subject is one which I shall have occasion to discuss from another angle when the "appointed day" of the Housing Act, 1935, draws nearer. Vice-Chancellor Bacon's invocation of reason in fact arose out of the question whether a covenant against parting with possession, entered into by two partners as joint tenants of a warehouse, had been infringed by the retirement of one of them. (In fairness to the civic authorities of Bristol, the action, which was for forfeiture, was brought to ascertain whether the tenants had an interest in the premises from the point of view of compulsory acquisition.) The Court of Appeal agreed that the covenant must be read as meaning that possession was not to be given to anyone of whom the lessor might not approve and was not broken by a reduction in the number of those of whom it had already approved. It is probably on these lines that the somewhat academic question whether a tenant infringes a covenant not to part with possession, which does not mention "to any person or persons," by leaving the premises vacant.

Our County Court Letter.

WIFE'S TENANCY UNDER SEPARATION AGREEMENT.

In *Clifford* v. *Robinson*, recently heard at Evesham County Court, the claim was for possession of a farm-house and £8 as damages for trespass. The plaintiff's case was that he was the tenant of the farm-house, under an agreement with the defendant's husband. The defendant should have given up possession on the 25th March, 1936, but she contended that she was entitled to remain in the house, rent free, as long as it was her husband's property. This was one of the terms of a separation agreement, made in 1932, under which the defendant also received 30s. a week. Evidence for the plaintiff was given by the defendant's husband, who contended that his offer of the residence, as one of the terms of separation, had never been accepted by the defendant, who could therefore be required to give up possession at any time. The defendant's case was that, even if there had been no formal acceptance of

the offer, nevertheless her continued occupation of the house (and her consequential acceptance of a smaller weekly sum in money) constituted an acceptance, which made the agreement binding upon her husband. The latter therefore had no right to grant a tenancy to the plaintiff, as the defendant had a prior title to the farm-house. His Honour Judge Roope Reeve, K.C., observed that the defendant's husband, although not a party to the action, had serious interests at stake. Although the husband was not bound by the decision, it determined the position as between him and his wife, and he might have difficulty in establishing the contrary. It was held that the agreement of 1932 disentitled the husband from letting the house, and judgment was given for the defendant, with costs.

SALVAGE OF TRAWLERS.

In the recent case of *Phillips* v. *Neale & West Limited* at Cardiff County Court, the claim was for salvage services in respect of two trawlers, viz., the "Asama" and the "Oku." The former had been driven out of the fairway by the set of the tide and had stuck on a rocky bottom near Penarth Head. Efforts to refloat her had failed, and the "Oku" (also owned by the defendants) had tried to tow the "Asama." The tow rope fouled the propeller of the "Oku," with the result that she was driven southward, and went ashore about 400 feet from the "Asama." The plaintiff's tug "Mersey" then appeared, and, at the direction of a director of the defendant company (who was aboard the "Asama") a tow rope was taken from the "Oku" to the "Mersey." A third trawler (also owned by the defendants) next appeared, and took the tow rope from the "Mersey." The "Asama" was then towed into deep water by the third trawler, which then took the "Oku's" rope from the "Mersey" and also towed the "Oku" into deep water. Part of the "Asama's" cargo was discharged into a lifeboat, which became waterlogged, and was towed into the dock by the tug. The value of the "Asama" and the "Oku" was £10,000 each, and the plaintiff's case was that the remuneration should exceed the amount tendered before action, viz., £1 per £1,000 value, a total of £20. His Honour Judge Thomas, sitting with nautical assessors, awarded £100 as salvage. It transpired that this was the amount offered, but declined, on the 22nd May, after the issue of the summons. Costs were accordingly awarded to the plaintiff prior to, but to the defendants subsequent to, that date.

RECENT DECISIONS UNDER THE WORKMEN'S COMPENSATION ACTS.

ACCIDENT TO BUS CONDUCTOR.

In *Humphreys* v. *Crosville Bus Co., Ltd.*, at Aberystwyth County Court, the applicant's case was that, while acting as conductor of a bus, he had to open the front door. In doing so, he felt a sharp pain in his wrist, which became so painful that he was unable to cash in, and a friend therefore counted his money for him. The cashier asked what was the matter, and the applicant explained what had happened. Being unable to attend the next day, the applicant sent a message, and subsequently had his wrist X-rayed. Medical evidence was given that the wrist was tubercular, but the injury must have lit up the disease. The respondents' case was that, although the applicant was known to have gone home unwell, the nature of the illness was not stated by the person paying in his money. The applicant was afterwards stated to be in bed with bronchitis, and his medical certificate did not mention any injury to his arm. It was submitted that earlier notice of the accident should have been given. His Honour Judge Frank Davies observed that the applicant had been on the verge of a serious illness, and notice was given as soon as possible. An award was made of £1 4s. 9d. a week as from the 3rd January, 1935, with costs.

INCAPACITY FROM CONSTITUTIONAL STATE.

In *Lee* v. *Madeley Collieries, Ltd.*, at Newcastle-under-Lyme County Court, the applicant's case was that in March, 1935, after working only eight days with the respondents, he was handling a truck of coal, when his leg became jammed. He was treated at the infirmary until May, 1935, and received compensation at the full rate of 23s. a week, as his pre-accident earnings had been assessed at 42s. a week. The applicant again worked as a loader, from May to December, when he had a fortnight's trouble with his leg, and he finally had to give up work in March, 1936. Apart from £1 a week, for a short period, while his leg was septic, the applicant had had no further compensation. The respondents' evidence was that, although the accident had happened to the right leg, the applicant had bandages on his left leg in January, 1936. His explanation was that, owing to the weakness of his right leg, he had fallen and hurt his left leg, but it was submitted that any present incapacity was due to the applicant's constitutional state, as he had recovered from the accident. His Honour Deputy Judge Burne, sitting with a medical assessor, was not satisfied that the applicant was prevented by the accident from earning more than the amount of his last wages. In other words, the applicant was fit for his pre-accident work, and therefore was not entitled to an award.

ACCIDENT TO CHARWOMAN.

In *Parker* v. *Watts*, at Redditch County Court, the applicant's case was that, while working as a charwoman on the 9th February, 1936, she had fallen down the stairs and fractured both wrists. On the 10th June the right wrist showed slight deformity, as the bones were out of alignment, but the left wrist showed little loss of alignment. Nevertheless she could neither scrub floors nor wring out clothes or dish cloths properly, in spite of massage treatment. The respondent admitted liability for the period of total incapacity, in respect of which he had paid into court £9 13s. 7d. His case was that the applicant had recovered from the accident, and any continuing incapacity in wage-earning was due to arthritis. His Honour Judge Kennedy, K.C., ordered payment out of the sum in court, and made an award of 1s. a week until such time as the incapacity ceased or redemption took place.

Correspondence.

[*The views expressed by our correspondents are not necessarily those of* THE SOLICITORS' JOURNAL.]

Re *Bridgett & Hayes' Contract.*

Sir,—In "A Conveyancer's Diary," published in your issue of 13th June, 1936, p. 458, it is stated that Mr. Justice Romer's decision in *Re Bridgett and Hayes' Contract* [1928] Ch. p. 163, is only in point when the settlement ceases on the death of the tenant for life. May I draw your attention to the fact that the whole of the first part of the judgment is given on the assumption that the land did not cease to be "settled land" on the death of the tenant for life, in other words, the judge assumed in this part of his decision that s. 22 of the A. of E.A., 1925, applied. It is only in the latter part of his judgment that he points out that as the land ceased to be "settled land" on the death of the tenant for life, s. 22 had, in fact, no application. The point appears to me to be of some importance because when land is vested in a tenant for life and a *general* grant of probate (without the exception of "settled land") is made to the executors of the tenant for life then, provided, of course, that such grant remains unrevoked at the time of sale, a purchaser can safely take a conveyance from such executors and is *not* concerned to enquire whether or not the land remained "settled land" after the death of the tenant for life. Even if the land did continue to be "settled land," and

the grant of probate as regards that land ought by reason of s. 22 of the A. of E.A., 1925, to have been made to some persons other than those to whom the general grant has in fact been made, still the purchaser gets a perfectly good title under the conveyance to him. It is, I think, essential to preserve the protection given by a "general grant."

24th June. X.Y.Z.

[We have submitted a copy of this letter to the contributor of the article referred to, and the following is his reply: "I am grateful to our correspondent for his letter. It is certainly quite correct that the case in question helps to establish the protection afforded by a general grant (even if wrongly made): this was not, however, an aspect of the case which was in mind when the article was written."—ED., *Sol. J.*]

Reviews.

The Life and Times of John, Lord Finch. By WILLIAM H. TERRY. 1936. Demy 8vo. pp. xii and (with Index) 814. London: Simpkin Marshall, Ltd. 18s. net.

For the present, this exhaustive work probably says the last word on the subject of a man notable even in a troubled time rich in outstanding personalities, a distinguished member of a great legal family whose connections with the law spans the time from Elizabeth to George IV. Lord Finch's ill fortune it was to live in the days of the Great Rebellion which wrenched the Great Seal from his hands and brought him down to impeachment and exile, though he lived to return at the Restoration and sit in judgment on the regicides. Nothing relevant to his history is left unsaid. Every ramification of his family tree is traced and on one branch blossoms a novel contribution to the Shakespeare-Bacon controversy, while in an appendix of unusual proportions is to be found a collection of those State trials which throw light either on his career or on the history of his forbears. Sometimes one feels, indeed, that the figure of the Lord Keeper is dwarfed by the very wealth of the detail surrounding him. Perhaps that is as it should be, for the times were greater than the man. It is good history, but it may be that perfect biography would have required a little more concentration. Still these are only the defects of the book's merits and both the historian and the general reader may gain much by a study of a work which should undoubtedly draw Lord Finch from the relative and unmerited obscurity in which his memory has lain.

Books Received.

Chalmers' and Asquith's Outlines of Constitutional Law. By DALZELL CHALMERS, B.A., Barrister-at-Law, and The Hon. CYRIL ASQUITH, M.A., Barrister-at-Law. Fifth Edition, 1936. By CYRIL ASQUITH, K.C. Demy 8vo. pp. xxxi and (with Index) 528. London: Sweet & Maxwell, Limited. 15s. net.

Tax Deduction Tables and Grossing up Tax Tables. By A. J. Allerton. 1936. London: Gee & Co. (Publishers) Ltd. 1s. net.

The Law Quarterly Review. Vol. LII, No. 207. July, 1936. Edited by A. L. Goodhart, D.C.L., LL.D. London: Stevens & Sons, Ltd. 6s. net.

A Digest of the Law of Evidence. By the late Sir JAMES FITZJAMES STEPHEN, Bart., K.C.S.I., D.C.L., one of the Judges of the High Court of Justice. Twelfth Edition, 1936, by Sir HARRY LUSHINGTON STEPHEN, Bart., of the Inner Temple, Barrister-at-Law, and LEWIS FREDERICK STURGE, Barrister-at-Law, of the Inner Temple and the Midland Circuit. Crown 8vo. pp. lvi and (with Index) 273. London: Macmillan & Co. Ltd. 7s. 6d. net.

Tax Cases. Vol. XIX. Part X. 1936. London: H.M. Stationery Office. 1s. net.

To-day and Yesterday.

LEGAL CALENDAR.

6 JULY.—Chief Justice Tindal died on the 6th July, 1846, after presiding for seventeen years over the Court of Common Pleas.

7 JULY.—On the 7th July, 1831, William Cobbett was prosecuted for sedition, conducting his own defence with extraordinary vigour and ability. His appearance in court was greeted by his friends with three cheers, and, turning to the gallery, he said: "If truth prevails, we shall beat them." The charge arose out of an article in his paper, the *Weekly Political Register*, which was alleged to be calculated to incite agricultural labourers to acts of violence and destruction, telling them that it would come to "actual starvation or fighting for food." The trial was sensational. Lord Brougham, the Lord Chancellor, and Lord Melbourne, the Home Secretary, were called as witnesses. After debating all night, the jury disagreed and Cobbett was discharged.

8 JULY.—On the 8th July, 1830, Isaac, alias Ikey, Solomons, a notorious thief and receiver of stolen goods, appeared at the Old Bailey. Three years before, he had escaped to America, but hearing that his wife had been transported, he went to New South Wales to join her. Too many of his acquaintances had gone that way for him to pass unrecognised, and soon he was on his way to England for trial. He was tried consecutively on eight separate indictments, being acquitted on several capital charges of burglary, but convicted of receiving and stealing.

9 JULY.—On the 9th July, 1860, the Court of Exchequer Chamber decided that a British subject might still sell slaves lawfully held by him in a foreign country where the possession and sale of slaves was lawful, and that the contract might be enforced in this country, although a statute of George IV had declared that: "It shall not be lawful for any person to deal or trade in or purchase slaves." The case was *Santos* v. *Illidge*, 8 C.B., N.S. 861.

10 JULY.—On the 10th July, 1780, Lord Chief Justice Loughborough opened the special commission for the trial of the Gordon rioters, who had for days waged warfare in the streets of London, with a charge to the Grand Jury, which was much criticised as a piece of inflammatory oratory. After graphically describing the burnings and lootings of the mob, he reached this peroration: "Religion, the sacred name of religion and of that purest and most peaceable system of Christianity, the Protestant Church, was made the profane pretext for assaulting the government, trampling upon the laws of the country and violating the first great precept of their duty to God and to their neighbour."

11 JULY.—On the 11th July, 1844, the Nabob of Surat and his suite visited the Lord Chancellor's Court. Upon his approach, the Lord Chancellor rose and exchanged salutations with him, inviting him to a seat beside him. The spectacle of an Asiatic potentate attracted a great crowd to the Court. Counsel craned their necks to see him. Some persons even stood on the benches.

12 JULY.—On the 12th July, 1671, "there was so great an allarum in Westminster Hall that ye gates were commanded to be shut. Ye King's Bench rose up in great disorder, but when they understood yt it was only a mad cowe which made all this disorder they sat down againe; . . . she having tossed several persons . . . and coming into ye Palace Yard . . . several persons drew their swords . . . Those in ye hall . . . were afrighted and some cryed out ye fifth-monarchy men were up and come to cut ye throats of ye lawyers who were ye great plague of ye land. Some flung away their swords . . . ye lawyers their gowns and . . . Serjeant Scroggs, who of late had a fit of ye gout, wase perfectly cured, stript himself of his gowne and coife, and with great activity vaulted over ye bar."

THE WEEK'S PERSONALITY.

Lord Chief Justice Tindal was in his time universally admitted to be an excellent judge. "There was an indescribable something about his manner that induced not merely the agreement, but the perfect confidence, that engaged not merely the admiration but the affection of those with whom he associated or conversed; while his courteous and amiable affability invited friendship, the habitual gravity of his deportment prevented undue familiarity, and few could approach him without feeling a sort of filial respect and regard." To extensive legal knowledge, he united the greatest possible impartiality and a remarkably sound judgment. He never invaded the province of the jury by obtruding his own view of a case upon them, and yet there was such a surprising fullness and clearness in his mode of laying the case before them that it was impossible for them to arrive at any other conclusion than the one at which he had arrived. On the bench his peculiarity was to lean forward to an unusual degree over his desk, and when he paused in taking notes to ask any question of counsel or witness, he seldom raised his head but looked out from under his brows.

CHARITY FROM THE BENCH.

A lorry driver, charged at the Mansion House recently with a motoring offence, arrived from Worcestershire practically penniless and so earned the sympathy of the presiding magistrate that he was given assistance from the poor box to enable him to find lodging and to return home. Charity of that sort from the seat of justice is perhaps less widespread than it might be. "Two shillings may save a man's soul," once said the late Sir Ernest Wild, and everyone knows how he helped an old convict with thirty-four years of prison behind him, taking him flowers in hospital when he was ill. The genial Mr. Baron Martin was once so moved by the condition of a destitute prisoner convicted before him that he not only passed a nominal sentence, but also sent him a present of £10. In a recent book of memoirs there is a tale of a kindly Scots magistrate who had a weakness for paying the fines he imposed. This became known and when a fine was announced the prisoner would say: "All richt, Bailee, ye can pay the fine yersel'." And he would reply: "If you can't afford to pay your fines, you've no business to get drunk." But he paid up.

THE GIFT OF TONGUES.

In the Probate Court recently when the official interpreter became unwell, while a Turkish lawyer was giving evidence in French, a distinguished "silk" who was appearing in the case offered his services and the case proceeded. It is an incident somewhat similar that is said to have founded the fortunes of Mr. Baron Huddleston at the Bar. Once an Italian witness was called at the Old Bailey. No interpreter was to be found. A young and unknown counsel rose and offered his services, doing his part so admirably that his success was immediately assured. So began Huddleston. Among the most distinguished of legal linguists was Kennedy, L.J., who had the reputation of being able to speak eight languages fluently. Judge Smyly of Shoreditch County Court possessed the useful combination of German, French, Spanish and Yiddish. Cockburn, C.J., was a good French scholar. Certainly his ear was offended by the dreadful pronunciation with which he once heard Lord Campbell, C.J., read a document in that language in court. "He's murdering it!" he exclaimed to Thesiger who was beside him. "No," was the reply, "only scotching it."

The *Irish Free State Gazette* last week announced the resignation by Mr. Justice Wylie of his offices as Judge of the High Court and Judicial Commissioner of the Land Commission. Mr. Justice Wylie, who was called to the Bar in 1905, has been a judge of the High Court, Irish Free State, since 1924.

Notes of Cases.

Judicial Committee of the Privy Council.

Mahadeo *v.* **R.**

The Lord Chancellor, Lord Russell of Killowen, Sir Lancelot Sanderson, Sir George Lowndes and Sir Sidney Rowlatt.
11th June, 1936.

FIJI—MURDER—EVIDENCE—CORROBORATION OF ACCESSORY—AFFIRMATIVE PROOF OF HOMICIDE—PRESUMPTION OF MALICE—PROCEDURE AND PRACTICE.

Appeal *in forma pauperis* by special leave from the judgment, dated the 17th May, 1934, of the Supreme Court of Fiji, sitting at the Lauotoka Circuit Court, by which the appellant, Mahadeo, aged about sixteen years, was found guilty of the murder of a boy named Ramautar, and, being a young person within the meaning of the Fiji Ordinance No. 37 of 1932, Mahadeo was, pursuant to s. 12, sentenced to be detained as the Governor might direct. The trial was held before the Chief Justice of Fiji, who was the only judge in the island, sitting with assessors, and the decision was vested solely in the judge.

The appellant was charged with murder, and one Mathura, his stepfather, was charged with being an accessory after the fact and also convicted. The only evidence as to the actual homicide was given by one Sukraj, a labourer about twenty-five years of age. In January, 1934, the appellant, the witness Sukraj, Ramautar and one Sarandas, of about the same age as Ramautar, were in a field. A struggle arose between Ramautar and Sarandas. The appellant intervened, released Sarandas and caught Ramautar by the throat while he was on the ground. The witness and Sarandas were then cutting grass. The appellant called out in a short time, and said, "Come and see what has happened to Ramautar." When the witness and Sarandas got up to him, the deceased was quivering. That went on for three minutes, when he died. According to Sukraj, Mathura, on being told what had happened, told the others to say nothing, and subsequently, with Sukraj and the appellant, hid the body.

Sir SIDNEY ROWLATT, giving the judgment of the Board, said that the prosecution was conducted by the Attorney-General. Mathura and the appellant were separately defended. At the opening the Attorney-General stated that he had received a letter from the defendants' solicitors requiring production of all statements made by the accused and by Sukraj, other than those produced as exhibits in the proceedings. The Attorney-General was not aware that there were two statements by Sukraj which had not been produced. The Chief Justice characterised the letter as being highly improper. In the result the statements of Sukraj were not produced, although they were available at the hearing of the appeal before the Board. There was no question but that the documents ought to have been produced, and their lordships could find no impropriety in the letter asking for their production. Next, the two defending counsel had arranged between themselves that, in their final addresses, Mathura's counsel should deal with the medical aspect of the evidence of death. The Chief Justice did not know of the arrangement. When, after the appellant's counsel had finished his speech, Mathura's counsel began to deal with the medical aspect, the Chief Justice told him that he must confine himself to the question of the implication of Mathura as accessory. Counsel did not ask that the appellant's counsel might renew his speech on the subject omitted, and the court was never addressed on it. The view of the Chief Justice was entirely ill-founded. Whether the deceased was murdered by the appellant was in issue as between each prisoner and the Crown, and Mathura's counsel would have been entitled to insist on proof of it and challenge the evidence of it even if the appellant had pleaded guilty.

Their lordships were also of opinion that there was no corroboration of Sukraj's story. The evidence of an accessory, which Sukraj plainly was, must be corroborated in some material particular bearing not only on the facts of the crime but on the accused's implication in it, and evidence of one accomplice was not available as corroboration of another (*R.* v. *Baskerville* [1916] 2 K.B. 658). That rule was now virtually a rule of law. Lastly, the Attorney-General and the Chief Justice appeared to have treated the case as one of murder or nothing, on the footing that the homicide being proved malice was presumed. On Sukraj's evidence there was revealed affirmatively no more than a case of manslaughter. The Chief Justice's view was based on a statement of the law as to the presumption of malice long found in text-books but recently explained, and largely qualified, by the House of Lords in *Woolmington* v. *Director of Public Prosecutions* [1935] A.C. 462. Their lordships had not overlooked the limits which the Board observed in dealing with criminal appeals. It was not necessary to repeat the rule in *In re Dillet* (12 App. Cas., at p. 459). They were of opinion that there were no materials here for a conviction of murder as opposed to manslaughter. In addition, the trial was so conducted as in three separate respects to exhibit a neglect of fundamental rules of practice necessary for the due protection of prisoners and the safe administration of criminal justice. Their lordships had humbly advised His Majesty that the appeal should be allowed.

COUNSEL: *J. M. Pringle*, for the appellant; *Kenelm Preedy*, for the Crown.

SOLICITORS: *Barrow, Rogers & Nevill; Burchells.*

Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Court of Appeal.

Ashby Warner & Co. Ltd. *v.* R. W. Simmons.

Greer, Greene and Scott, L.JJ. 9th, 10th and 11th June, 1936.

COMPANIES—CONTRACTORS EMPLOYED BY LOCAL AUTHORITY—EMPLOYMENT OF SUB-CONTRACTOR—AUTHORISATION BY CONTRACTOR TO PAY SUB-CONTRACTOR OUT OF NEXT CERTIFICATE TO BE ISSUED BY LOCAL AUTHORITY—WHETHER A CHARGE ON BOOK DEBTS REQUIRING REGISTRATION—COMPANIES ACT, 1929 (19 & 20 Geo. 5, c. 23), s. 79.

Appeal from the King's Bench Division (80 SOL. J. 265).

The company were employed as sub-contractors by a firm called the National Heating Co. (1928) Limited, who had contracted to carry out certain works for the London County Council, and who on the 14th July, 1933, being in financial difficulties, addressed an authorisation to the Council to pay the sub-contractors £338 9s. 11d. (the sum claimed in these proceedings) out of the next certificate issued by the chief engineer to the Council. The authorisation was not registered as a charge pursuant to the Companies Act, 1929, s. 79. On the 28th July, S was appointed receiver of the National Heating Co. and subsequently repudiated liability to act in accordance with the authorisation. The next certificate issued by the chief engineer was for £836 1s. 5d., which was paid into court by the Council to abide the trial of the issue. The Divisional Court held that the authorisation was not a charge on book debts void against the receiver under s. 79 of the Act.

GREER, L.J., dismissing the receiver's appeal, said that the matter must be treated as one of substance and not merely the form of the document (see *Saunderson & Co.* v. *Clark*, 29 T.L.R. 579; *Tailby* v. *Official Receiver*, 13 App. Cas. 523). At common law there was a distinction between the idea of a security and an assignment. But common law did not recognise that rights could be created by an order for payment of a sum out of a larger sum, regarding it neither as a security nor an assignment. Equity, however, held that an assignment of part of a larger sum gave an equitable claim on the fund if it came into existence. In the present case, this was not a security, but an assignment. *Ladenburg & Co.* v. *Goodwin, Ferreira & Co. Ltd.* [1912] 3 K.B. 275, was not a similar case, an assignment of a debt being different from a hypothecation. This was not a charge within s. 79.

GREENE and SCOTT, L.JJ., agreed.

COUNSEL: *Sutton*, K.C., and *H. Garland*; *C. Fawell.*

SOLICITORS: *Alfred C. Warwick & Co.*; *Pritchard, Englefield & Co.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Craze *v.* Meyer-Dunmore Bottlers' Equipment Co. Ltd.

Greer, Greene and Scott, L.JJ. 24th, 25th and 26th June, 1936.

MASTER AND SERVANT—DANGEROUS MACHINERY—INSUFFICIENT FENCING — ACCIDENT — CONTRIBUTORY NEGLIGENCE OF SERVANT—WHETHER GOOD DEFENCE.

Appeal from a decision of Atkinson, J.

The plaintiff was foreman engineer in the defendants' factory where a circular saw was installed in October, 1934, the machine being delivered and installed without proper guards, notwithstanding the protests of the plaintiff. In December, while a carpenter was using it, it jammed. The plaintiff in attempting to remedy the defect was injured. He sued for damages, alleging that he had been injured in consequence of the machine being improperly fenced. There was a conflict of evidence as to what had occurred while he was dealing with the defect, but Atkinson, J., held that he had put his hand against the moving belt, a thing which a man of his experience must have known was dangerous and which an ordinary prudent man would not have done. His lordship held, therefore, that he had been guilty of contributory negligence and dismissed the action.

GREER, L.J., dismissing the plaintiff's appeal, said that he agreed with the learned judge's decision on the facts, but it had been argued that more than contributory negligence was necessary to disentitle the plaintiff from succeeding. This was not so, however (see *Groves* v. *Lord Wimborne* [1898] 2 Q.B. 402, at p. 419, and *Dew* v. *United British Steamship Co.*, 139 T.L.R. 628). Nothing in *Flower* v. *Ebbw Vale Steel Iron & Coal Co.* [1934] 2 K.B. 132, prevented the court from holding that this contributory negligence afforded a good defence.

GREENE and SCOTT, L.JJ., agreed.

COUNSEL: *Cave*, K.C., and *J. N. Watkins*; *E. Dale* and *J. W. Russell.*

SOLICITORS: *Barlow, Lyde & Gilbert*; *Carpenters.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—Chancery Division.

In re Tegg; Public Trustee *v.* Bryant.

Farwell, J. 12th June, 1936.

WILL—CONSTRUCTION—LIFE ANNUITY TO MOTHER—FORFEITURE—CONDITIONS—"CONFORM TO AND BE MEMBERS OF THE ESTABLISHED CHURCH OF ENGLAND"—CHILDREN NOT TO BE SENT TO ROMAN CATHOLIC SCHOOL—WHETHER VOID—UNCERTAINTY—PUBLIC POLICY.

The testator died in 1935, and by his will bequeathed to his daughter a weekly sum of £2 for life. His will contained a clause declaring that he desired that his daughter and any children she might bear should at all times conform to and be members of the Established Church of England, and that at no time might any child of hers go to or be sent to any Roman Catholic school for education, and that if either his daughter or her children should violate this his wish in any way, then all the benefits accruing to her or them under his will should be considered as null and void. The question arose whether the condition was valid.

FARWELL, J., in giving judgment, said that, in considering the validity of a condition of this kind, it must be borne in mind what Lord Cranworth said in *Clavering* v. *Ellison*, 7 H.L.C. 707, at p. 725. The court must be able to see from the beginning precisely upon the happening of what event the preceding vested estate was to determine. In the present case, with regard to the condition relating to the Church of England, if the testator had been content to make membership a condition, there might have been certainty, but he had used the words "conform to." It was impossible to say whether any particular act or omission would render the condition operative, whether, for instance, a person baptised and confirmed in the Church of England and thereafter ceasing to pay any attention to it could be said to conform to it. This condition did not fulfil Lord Cranworth's words, and was void for uncertainty. As to the condition with regard to not sending the children to a Roman Catholic school, in the events which had happened, if it was valid, it would be the mother and not the children who would suffer if it were broken. It was inconsistent with the duty cast on a parent to make the best provision for her children that a threat should be held over her head. It might be that the proper method of education for a child would be that it should go to a Roman Catholic school, and an attempt to fetter the parent's discretion to do what she thought best for the education of her children should not be enforced by the court. His lordship referred to *In re Borwick* [1933] Ch. 657, and said that if the children became wards of court and the court ordered them to be sent to a Roman Catholic school, that might defeat the mother's interest and the court would be fettered in determining what might be the most advantageous method of education. To try to put this sort of restraint on a parent by seeking to deprive her of personal benefit if she did what she considered was her duty, was something which the court should not enforce. It was contrary to public policy.

COUNSEL: *Winterbotham; Wilfrid Hunt; W. T. Elverston; G. Upjohn.*

SOLICITORS: *Wordsworth, Marr, Johnson & Shaw; Roche & Sons.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

In re Fenwick's Will Trusts: Fenwick *v.* Stewart.

Farwell, J. 16th June, 1936.

WILL—CONSTRUCTION—CONTINGENT LEGACY—LEGACY DUTY—INCIDENCE.

A testator who died in November, 1924, gave by his will £20,000 (free of duty) to his trustees upon trust during the life of his adopted daughter, M, to use the whole or such part of the income thereof as they might think fit, for her benefit, and, within the limits permitted by law, to accumulate the remainder of such income, and after her death to hold the capital and accumulations, if any, upon trust in equal shares for such of her children and the issue of deceased children *per stirpes* as should survive her and attain the age of twenty-one, and if there should be no such children or issue, the same should fall into his residuary estate, provided always that at any time and from time to time during the trust thereby created, it should be lawful for the trustees in their uncontrolled discretion (but during the lifetime of the testator's widow, only with her consent) to use the whole or any part of the capital and accumulations, if any, of the legacy in any manner which they might think fit for the benefit of his adopted daughter (whether on her marriage with their approval or on any other occasion) or of her children and remoter issue or any of them, or to make over to her or them or any of them, absolutely. (The amount of this gift was subsequently reduced by codicil to £15,000.) The testator gave his residuary estate upon trust for his wife for life with remainder to P. After the testator's death, certain investments were appropriated to meet the settled legacy and the whole income thereof had since been paid for the benefit of M. In 1929, on her marriage, the trustees raised investments to the value of £8,515 out of the investments representing the legacy, and settled them on her. Subsequently, they raised sums amounting to £330 which they also paid to her. The question arose whether (*a*) the legacy duties on the income of the settled legacy and (*b*) the legacy duties on the sums raised out of the capital of the settled legacy were to be paid out of the capital or out of the income of the testator's residuary estate.

FARWELL, J., in giving judgment, said that the question involved a consideration of the rule in *Allhusen* v. *Whittle*, L.R. 4, Eq. 295. This gift was a contingent legacy or, rather, a series of contingent legacies. Did the rule apply to contingent legacies? In that case, Page-Wood, V.-C., had treated them as apart from other payments for testamentary expenses and debts (*see* L.R. 4 Eq. at p. 303). He expressly excluded contingent legacies from the rule. *In re Perkins* [1907] 2 Ch. 596, and *In re Poyser* [1910] 2 Ch. 444, were not dealing with contingent legacies, and different principles applied. In the present case, there would be a declaration that the legacy duties in question were payable out of the corpus of the estate.

COUNSEL: *Rawlence; J. Stamp; J. N. Gray.*

SOLICITORS: *Williams & James; Bartlett & Gregory.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Jones *v.* Down (Inspector of Taxes).

Lawrence, J. 8th April, 1936.

REVENUE—INCOME TAX—TRANSFER TO TRUSTEES OF STOCK TO BE HELD FOR MINOR—INCOME TO ACCUMULATE—STOCK AND ACCUMULATIONS TO BE TRANSFERRED TO MINOR ON MARRIAGE OR MAJORITY—WHETHER INTEREST CONTINGENT OR VESTED—CLAIM TO RETURN OF INCOME TAX—INCOME TAX ACT, 1918 (8 & 9 Geo. 5, c. 40), s. 25.

Appeal by case stated from a decision of the Commissioners for the general purposes of the income tax objecting to a claim made by the appellant, Miss Jones, for relief under s. 25 of the Income Tax Act, 1918.

The appellant's godfather, G. S. Johnston, died in 1915, without leaving a will. R. E. Johnston, his father and the appellant's grandfather, became his son's administrator, and informed the appellant's father the same year that he wished to hand over to him and one Twining, for the appellant, certain investments to be held by them in trust to accumulate the dividends and transfer the stock to the appellant when she married or came of age. The only record of the transaction was a letter from the appellant's father to R. C. Johnston acknowledging the transfer and stating that a memorandum would be endorsed on his (the appellant's father's) marriage settlement stating that the stock was "left to" the appellant by G. S. Johnston to be held in trust for her until she married or came of age. That memorandum was duly made on the settlement, the investments being declared to be "bequeathed to" the appellant by G. S. Johnston. It was admitted that the expressions "left" or "bequeathed" were incorrect, since the investments were in fact the gift to the appellant of R. E. Johnston. The appellant came of age in September, 1934. A claim was made on her behalf to repayment of income tax in respect of the income of the stock for the eighteen years ended the 5th April, 1933. The respondent refused the claim except for the last six years of the period. It was contended for the appellant that the settlement of the investments was contingent within the meaning of s. 25 of the Income Tax Act, 1918. It was contended for the respondent *inter alia* (1) that the terms of the settlement constituted a gift of the investments to the appellant, the condition concerning her marriage or majority applying only to the date at which the investments were to be transferred to her; (2) that the appellant took a vested and not a contingent interest; and (3) that she was

not entitled to relief under s. 25. The Commissioners decided that the interest was vested, and upheld the respondent's objection.

LAWRENCE, J., said that s. 25 had been read by the courts only as referring to cases where income arising from a fund was accumulated for the benefit of a person who was entitled contingently on his attaining some specified age, or marrying. That view was clearly expressed by Sargant, L.J., in *Dale* v. *Mitcalfe* (1927), 13 T.C. 41, at p. 55, by the court in *Roberts* v. *Hanks* (1926), 10 T.C. 351, and by the Court of Session in *Bone* v. *Commissioners of Inland Revenue* (1927), 13 T.C., at p. 20. He (his lordship) was bound by those cases to adopt that construction of s. 25. It was in his judgment clear that the appellant had taken a vested interest in the investments, and in the income from them, at the time of the gift, and, therefore, that, in the words of Sargant, L.J., the trustees who were to accumulate the income could have applied to the Commissioners of Inland Revenue at any time for relief from income tax on the ground that the appellant's income was not above the taxable limit. The appeal must be dismissed.

COUNSEL: *Gurney J. Beagley*, for the appellant; *The Attorney-General* (Sir Donald Somervell, K.C.), and *R. P. Hills*, for the respondent.

SOLICITORS: *Richard Brooks & Son*; *The Solicitor of Inland Revenue.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Howard *v.* Furness Houlder Argentine Lines Ltd. and A. & R. Brown Ltd.

Lewis, J. 25th May, 1936.

NEGLIGENCE—WORKMAN ON SHIP INJURED THROUGH ESCAPE OF STEAM—WHETHER DOCTRINE IN *Rylands* v. *Fletcher* APPLICABLE—ACCIDENT CAUSED BY NEGLIGENT ASSEMBLING OF VALVE BY REPAIRERS—DANGEROUS THING—LIABILITY OF REPAIRERS TO WORKMEN APART FROM THEIR CONTRACT WITH SHIPOWNERS.

Further consideration of an action for damages for personal injuries, tried at Liverpool Assizes.

The plaintiff, an electric welder, was working on the first defendants' ship in February, 1935, as she was lying in dock, when an explosion occurred and he received injuries. The explosion was caused by an escape of steam into the main range of pipes, that escape being caused by the fact that a valve on one of the boilers was wrongly assembled. His lordship found as a fact that the shipowners did not know of the danger of the wrongly-assembled valve, and that they could not by the exercise of any reasonable care have discovered it. In December, 1934, the second defendants, in the course of work done on the ship in pursuance of a contract with the shipowners, had stripped the valve for survey, and had later re-assembled it. His lordship found as a fact that the second defendants' representatives were guilty of negligence, either because they had re-assembled the valve wrongly or because they had failed when they dismantled it to observe that a certain part of it had been fitted the wrong way up.

LEWIS, J., said that it had been argued for the plaintiff that he was entitled to recover against the shipowners apart from negligence, on the principle of *Rylands* v. *Fletcher* (1868), 3 H.L. 330. Counsel had contended that steam was a dangerous thing, that the ship came within the category of premises for this purpose, and that the shipowners were accordingly liable for the consequences if the steam escaped. He (his lordship) could not accede to that argument. There had been no escape of steam from the shipowners' premises. The plaintiff's injuries occurred on the premises. The doctrine of *Rylands* v. *Fletcher*, *supra*, had never been held to apply to damage caused on the premises where the dangerous thing was kept. *Filburn* v. *The People's Palace & Aquarium Co. Ltd.* (1890), 25 Q.B.D. 258, and *Sycamore* v. *Ley* (1932), 147 L.T. 342, which counsel had cited, had no application to the facts of this case. Whether or not the plaintiff was an invitee of the shipowners, he was certainly a licensee with an interest, and therefore had the same rights as an invitee (*Holmes* v. *The North Eastern Rly. Co.* (1869), L.R. 4 Ex. 254; (1871), L.R. 6 Ex. 123; *Wright* v. *London & North Western Rly. Co.* (1876), 1 Q.B.D. 252; *Sutcliffe* v. *Clients Investment Co. Ltd.* [1924] 2 K.B. 746. In view, however, of his (his lordship's) finding of fact that the shipowners could not have discovered the defect in the valve by the exercise of reasonable care, the defect in the valve was not a danger of which the shipowners knew or ought to have known; they could accordingly not be made liable on the principle of *Indermaur* v. *Dames* (1866), L.R. 1 C.P. 288, and there must be judgment in their favour. It had been strenuously argued for the second defendants that the plaintiff could not recover against them, even if they were negligent, because there was no privity of contract between them. Counsel had relied particularly on *Earl* v. *Lubbock* [1905] 1 K.B. 253; and *Hodge & Sons* v. *Anglo-American Oil Co.* (1922), 12 Ll.L. 183, at p. 186; and had called attention, *inter alia*, to *Donoghue* v. *Stevenson* [1932] A.C. 562; *Grant* v. *Australian Knitting Mills Ltd*, 79 SOL. J. 815; [1936] A.C. 85, at p. 107; *Otto* v. *Bolton & Norris* (1936), 80 SOL. J. 306; 52 T.L.R. 438. Although it was well established that only a party to a contract could complain of a breach of it, negligence apart from contract gave a right of action to the person injured: See the judgment of Rowlatt, J., in *Humphery* v. *Bowers* (1929), 34 Com. Cas. 189, at p. 197, and that of Lord Macmillan in *Donoghue* v. *Stevenson* [1932] A.C. 562, at p. 609, and in the same case the comments of Lord Atkin on *Earl* v. *Lubbock* (at p. 591), of which he said he had no doubt that the plaintiff had in that case failed to show that the repairer owed any duty to him. In the present case, the case against the second defendants was in negligence apart from contract, and it was necessary to consider whether there was, apart from contract, any duty owed to the plaintiff by the defendants and neglected by them. Counsel for the second defendants had relied strongly on *Hodge's Case* (1922), 12 Ll.L. Rep. 183, 19, and the judgment of Scrutton, L.J., at p. 187, where he said that, as regards an article safe if properly constructed or repaired, but dangerous because of negligent construction or repair, where the defendant did not know of the danger, the court was bound by *Earl* v. *Lubbock*, *supra*, to hold the defendant not liable to persons with whom he had no contract for damage caused by the dangerous article. The Lord Justice had added that he personally did not understand the difference between a thing dangerous in itself, as poison, and a thing not dangerous as a class, but by negligent construction dangerous as a particular thing. In the present case, he (his lordship), finding as he did that the defendants had fitted part of the valve upside down, considered that they converted an article not dangerous in itself into a dangerous article, and that they knew of the danger which they were so creating. That imposed on them a liability for injuries to the plaintiff altogether apart from a liability for negligence arising out of the contract with the shipowners, and there must accordingly be judgment for the plaintiff against the second defendants.

COUNSEL: *Goldie*, K.C., and *E. R. Batt*, for the plaintiff; *Clothier*, K.C., and *S. Scholefield Allen*, for the first defendants; *Sellers*, K.C., and *H. S. Nelson*, for the second defendants.

SOLICITORS: *Helder, Roberts & Co.*, agents for *Behn, Twyford & Reece*, Liverpool; *P. F. Walker & Co.*, agents for *Weightman, Pedder & Co.*, Liverpool; *Laces & Co.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Mr. Henry Robert Bruxner, J.P., retired solicitor, of Rugeley, left estate of the gross value of £13,549, with net personalty £13,439. He left £100 to the West Highland Cottage Hospital, Oban; £100 to Staffordshire General Infirmary; £50 to Rugeley District Hospital; and £50 to Staffordshire County Nursing Association.

Probate, Divorce and Admiralty Division

Clifton, otherwise Packe *v.* Clifton.

Bucknill, J. 26th May, 1936.

NULLITY—MAINTENANCE AND VARIATION OF SETTLEMENT—INCAPACITY OF MALE RESPONDENT—COHABITATION OF SHORT DURATION—APPORTIONABLE FUND COMPRISED IN PRE-NUPTIAL SETTLEMENT BY RESPONDENT'S FATHER—PROVISION DEPENDENT ON PROPRIETY AND MORAL JUSTICE—ORDER REFUSED—COSTS.

This was a motion to vary the registrar's report on petitions for maintenance and variation of settlement. The petitioner married the respondent in June, 1934, and obtained a decree *nisi* of nullity against him on the ground of his incapacity in July, 1935. The petitioner in due course lodged petitions for maintenance and variation of settlement. The financial position of the parties was as follows. By a pre-nuptial settlement, the respondent's father personally covenanted to pay to the respondent £400 per annum during their joint lives, and in addition brought into settlement certain securities which secured to the respondent a further £400 per annum during the respondent's life. The respondent, as an officer of His Majesty's Army, received pay amounting to £180 per annum, and had certain rights under a discretionary trust, which brought him in £580 per annum. The petitioner's income was about £420 per annum. The learned registrar, in his report, reported that the settlement should be varied in the terms of the prayers of the petition and answer (that the petitioner's and respondent's respective interests in each others funds should be extinguished) that the provision by the respondent's father should cease, and that no maintenance should be ordered as against the respondent, mainly on the ground that if the rights of the parties under the covenants of the respondent's father and in respect of the securities brought in by him are extinguished, the respondent is left with about £750 per annum, and the petitioner with about £420 per annum, and on those figures no case for maintenance was made out. Counsel, on behalf of the petitioner, submitted that an order for maintenance should be made. The registrar was wrong in freeing the respondent's father from the settlement because the consideration of the marriage had failed. The court could vary in favour of a petitioner a settlement made by a third party. The principles of allotting maintenance in nullity cases were illustrated in *Nepean* (otherwise *Lee Warner*) v. *Nepean* [1925] P. 97; *Gullan* v. *Gullan* (otherwise *Goodwin*) [1913] P. 160; and *Gardiner* (otherwise *Phillips*) v. *Gardiner* (1920), 36 T.L.R. 294. Counsel, on behalf of the respondent, submitted that the report should be confirmed. The covenants entered into by the respondent's father depended for their validity upon the validity of the marriage, and his liability necessarily terminated unless the court thought fit to keep it alive. Counsel referred to *Dormer* (otherwise *Ward*) v. *Ward* [1901] P. 20. The petitioner was seeking to impose on the respondent's father a continuing liability to support her, although the cohabitation between herself and the respondent had been only of few months' duration, which would be inequitable in the circumstances. Counsel, on behalf of the respondent's father, adopted the same argument. Counsel appeared for the trustees.

BUCKNILL, J., in the course of giving judgment, said that the real question he had to decide was the one arising from the statement of Sir Henry Duke, P. (as he then was), in *Gardiner* v. *Gardiner, supra*, at p. 295. "An appeal for permanent maintenance after a decree of nullity is not an appeal to a set of fixed principles, but one to the sense of propriety and moral justice of the court." It was clear that Colonel Clifton made provision for his son, thinking there was going to be a valid marriage and with the natural hopes that that entails. In fact, no valid marriage had been consummated, and the ceremony had become null and void. Was there any reason why the wife in the present case should receive maintenance? The parties had only been married for a year, and the marriage had been annulled on the ground of the incapacity of the husband. The case seemed to him (his lordship) entirely different from the case of divorce where there was fault on the part of the husband. The cases referred to on behalf of the petitioner were all cases in which quite a substantial period of time had elapsed between the marriage and the decree of nullity. The report of the learned registrar was right. His lordship confirmed the registrar's report, except as to costs of the petitioner, which he ordered should be taxed against the husband both before the registrar and on the motion.

COUNSEL: *Noel Middleton*, K.C., for the petitioner; *W. N. Stable*, K.C., and *Hon. Victor Russell*, for the respondent; *J. B. Blagden*, for the respondent's father; *Hon. J. T. Roberts*, for the trustees.

SOLICITORS: *Withers & Co.*; *Dawson & Co.*; *Norton, Rose, Greenwell & Co.*

[Reported by J. F. COMPTON-MILLER. Esq., Barrister-at-Law.]

Paul *v.* Paul.

Sir Boyd Merriman, P. 24th June, 1936.

DIVORCE—TRIAL OF ISSUE AS TO VALIDITY OF MARRIAGE—WIFE'S PETITION FOR JUDICIAL SEPARATION—HUSBAND'S ANSWER CLAIMING DECLARATION OF NULLITY—SWISS DECREE OF DIVORCE OBTAINED BY PETITIONER FROM FORMER MARRIAGE—DOMICIL OF FORMER HUSBAND IN NEW YORK STATE—LACK OF JURISDICTION IN SWISS COURT—SWISS DECREE INVALID—DECLARATION OF NULLITY MADE.

This was the trial of an issue as to the validity of the marriage.

The wife petitioned for judicial separation in answer to which the husband alleged that the marriage between the parties was a nullity by reason of the fact that a marriage between the petitioner and her former husband was still subsisting, and prayed for a declaration of nullity. In April, 1927, the petitioner married John Robert Beecroft, in the State of New York. Matrimonial differences having arisen the petitioner proceeded to take up her residence in Switzerland, and in June, 1931, she was granted a divorce by the Court at Zurich. In August, 1931, the petitioner married the respondent at Manhattan in the State of New York. It was submitted on behalf of the respondent that the Zurich decree was invalid for want of jurisdiction in the Zurich Court, Mr. Beecroft being domiciled in New York State, and that the petitioner's and respondent's subsequent marriage was in consequence a nullity. On behalf of the petitioner it was contended that the Zurich decree was valid, inasmuch as Mr. Beecroft was domiciled in New York State and the Zurich decree would be recognised as valid by the Courts of New York State. The petitioner had taken the advice of an American lawyer and had obtained the Swiss decree in good faith. However, during the course of the argument, it was intimated on behalf of the petitioner that she did not desire to proceed further with her petition, and would not now oppose the making of a declaration of nullity. Expert evidence was given as to the foreign law.

Sir BOYD MERRIMAN, P., in giving judgment accepting the submission on behalf of the respondent, said that there was no dispute as to the facts. Mrs. Beecroft, as she then was, elected to obtain a decree of divorce at Zurich in Switzerland. When the question of marriage was broached between the respondent and petitioner thereafter, the respondent had some doubts as to the validity of the divorce decree. However, he was subsequently reassured by an opinion given to him in New York by an American lawyer, and the parties accordingly went through a ceremony of marriage in 1931. He (his lordship) had to decide whether the courts of the State of New York would recognise the Zurich divorce as valid. The law of the State of New York appeared beyond question

to be very much like our own in that it was prepared to recognise a decree of divorce pronounced by a foreign court, provided there was the essential element founding jurisdiction—namely, that the parties were domiciled within the jurisdiction of the foreign court. It was equally clear that it was not prepared to recognise, for the purpose of founding jurisdiction, a mere colourable residence. He (his lordship) felt that he ought not to hesitate to find it proved in the present case that a judge of the State of New York would find himself bound to hold that there had been no domicil in Switzerland in the real sense of the word. It followed that the Swiss decree was not a valid decree of divorce, and that the subsequent marriage in the State of New York was invalid. The case would be in the list on the next day for the wife's petition to be dismissed and for a declaration of nullity to be granted in favour of the respondent.

COUNSEL: *H. W. Barnard*, for the petitioner; *Sir William Jowitt*, K.C., and *Noel Middleton*, K.C., for the respondent.

SOLICITORS: *Freke Palmer, Romain & Romain; Stibbard, Gibson and Co.*

[Reported by J. F. COMPTON-MILLER, Esq., Barrister-at-Law.]

[For Table of Cases previously reported in current volume see page iii of Advertisements.]

Obituary.

MR. C. W. ANDERSON.

Mr. Charles William Anderson, solicitor and banker, of Jedburgh, died on Monday, 6th July. Mr. Anderson, who was admitted a solicitor in 1887, was senior partner in the firm of Messrs. Charles & R. B. Anderson, W.S., of Jedburgh. He was a Joint-Agent of the Royal Bank.

MR. F. B. L. H. BEAL.

Mr. Francis Blake Lascelles Herbert Beal, solicitor, senior partner in the firm of Messrs. F. Beal & Son, of St. Albans, died on Wednesday, 8th July, at the age of 80. Mr. Beal, who was admitted a solicitor in 1880, was appointed clerk to the Highgate Justices in 1889. In 1930 he received a presentation from the Justices in celebration of his fiftieth year as a solicitor.

MR. F. S. BOSTOCK.

Mr. Frank Searle Bostock, solicitor, head of the firm of Messrs. Bostock & Co., of Lincoln's Inn Fields, W.C., died at Denmark Hill, on Wednesday, 8th July. Mr. Bostock was admitted a solicitor in 1904.

MR. P. H. CHAMBERS.

Mr. Percy Holland Chambers, solicitor, senior partner in the firm of Messrs. Brash, Wheeler, Chambers, Davis & Co., of Paternoster-row, E.C., and Messrs. Chambers, Garnett & Chambers, of Finchley and Hampstead, died on Sunday, 5th July, at the age of 69. Mr. Chambers, who was admitted a solicitor in 1893, was awarded the Clement's Inn, Daniel Reardon and John Mackrell Prizes and the Scott Scholarship.

MR. W. W. HIGGS.

Mr. William Ward Higgs, solicitor, a partner in the firm of Messrs. Rehder & Higgs, of Mincing Lane, E.C., died at Rochampton on Sunday, 21st June, at the age of 70. Mr. Higgs was admitted a solicitor in 1888.

MR. J. A. LEE.

Mr. James Arthur Lee, solicitor, of Bradford, died on Thursday, 2nd July, at the age of 60. Mr. Lee served his articles at Huddersfield, and was admitted a solicitor in 1901.

MR. J. WARNER.

Mr. John Warner, solicitor, of Stafford, died on Thursday, 2nd July, at the age of 74. Mr. Warner served his articles with Mr. F. W. Tompkinson, of Burslem, and was admitted a solicitor in 1884. He acquired the practice of the late Mr. F. Greatrex, of Stafford, in 1909. He had been a member of the Stafford Town Council since 1932.

Parliamentary News.

Progress of Bills.

House of Lords.

Air Navigation Bill.
Read First Time. [2nd July.

Crown Lands Bill.
Read First Time. [7th July.

Darlington Corporation Trolley Vehicles (Additional Routes) Provisional Order Bill.
Reported, without Amendment. [2nd July.

Derby Corporation (Trolley Vehicles) Provisional Order Bill.
Reported, without Amendment. [2nd July.

Doncaster Corporation (Trolley Vehicles) Provisional Order Bill.
Reported, without Amendment. [2nd July.

Education Bill.
Amendments reported. [8th July.

Education (Scotland) Bill.
Read First Time. [7th July.

Employment of Women and Young Persons Bill.
Read Third Time. [8th July.

Finance Bill.
Read First Time. [7th July.

Great Western Railway (Ealing and Shepherd's Bush Railway Extension) Bill.
Read Third Time. [2nd July.

Housing Bill.
Reported, with Amendments. [7th July.

Land Registration Bill.
Reported, without Amendment. [8th July.

London and Middlesex (Improvements, etc.) Bill.
Reported, with Amendments. [7th July.

London County Council (General Powers) Bill.
Commons' Amendments agreed to. [7th July.

London County Council (Money) Bill.
Read Second Time. [8th July.

Manchester Ship Canal Bill.
Read Third Time. [8th July.

Midwives Bill.
Read First Time. [8th July.

Ministry of Health Provisional Order (Heathfield and District Water) Bill.
Read First Time. [7th July.

North Metropolitan Electric Power Supply Bill.
Commons' Amendments agreed to. [7th July.

Pensions (Governors of Dominions, etc.) Bill.
Reported, without Amendment. [2nd July.

Petroleum (Transfer of Licences) Bill.
Read Third Time. [8th July.

Pier and Harbour Provisional Order (Gloucester) Bill.
Reported, without Amendment. [2nd July.

Pilotage Authorities (Limitation of Liabilities) Bill.
Read Third Time. [2nd July.

Private Legislation Procedure (Scotland) Bill.
Reported, with Amendments. [7th July.

Public Health Bill.
Read Third Time. [7th July.

Public Health (Drainage of Trade Premises) Bill.
Read Third Time. [2nd July.

Public Health (London) Bill.
In Committee. [7th July.

Reading Corporation (Trolley Vehicles) Provisional Order Bill.
Reported, without Amendment. [2nd July.

Retail Meat Dealers' Shops (Sunday Closing) Bill.
Read Third Time. [7th July.

Shops (Sunday Trading Restriction) Bill.
In Committee. [2nd July.

Southern Railway Bill.
Read Third Time. [8th July.

Stalybridge Hyde Mossley and Dukinfield Transport and Electricity Board Bill.
Read Third Time. [7th July.

Tithe Bill.
Read Second Time. [8th July.

Weights and Measures Bill.
Amendments reported. [7th July.
Petroleum (Transfer of Licences) Bill.
Read Third Time. [8th July.

House of Commons.

Air Navigation Bill.
Read Third Time. [1st July.
Brentford and Chiswick Corporation Bill.
Lords' Amendments agreed to. [6th July.
Brighton Corporation Bill.
Reported, with Amendments. [2nd July.
Cirencester Gas Bill.
Lords' Amendment agreed to. [6th July.
Colne Valley and Northwood Electricity Bill.
Lords' Amendments agreed to. [6th July.
Crown Lands Bill.
Read Third Time. [2nd July.
Education (Scotland) Bill.
Read Third Time. [2nd July.
Epsom and Walton Downs Regulation Bill.
Reported, with Amendments. [2nd July.
Finance Bill.
Read Third Time. [2nd July.
Great Western Railway (Ealing and Shepherd's Bush Railway Extension) Bill.
Lords' Amendments agreed to. [6th July.
Health Resorts and Watering Places Bill.
Read Second Time. [6th July.
Hornchurch Urban District Council Bill.
Read Second Time. [6th July.
Land Drainage Provisional Order (No. 2) Bill.
Read Third Time. [8th July.
Liverpool Corporation Bill.
Read Second Time. [2nd July.
London County Council (General Powers) Bill.
Read Third Time. [6th July.
London County Council (Money) Bill.
Read Third Time. [2nd July.
Manchester Ship Canal Bill.
Read First Time. [8th July.
Midwives Bill.
Read Third Time. [7th July.
Ministry of Health Provisional Order (Heathfield and District Water) Bill.
Read Third Time. [6th July.
National Health Insurance Bill.
Read Second Time. [7th July.
North Metropolitan Electric Power Supply Bill.
Read Third Time. [6th July.
North West Kent Joint Water Bill.
Reported, with Amendments. [2nd July.
Old Age Pensions Bill.
Read Second Time. [7th July.
Post Office (Sites) Bill.
Reported. [7th July.
Road Traffic (Driving Licences) Bill.
Lords' Amendments agreed to. [1st July.
Rochester Corporation Bill.
Reported, with Amendments. [2nd July.
Shops Bill.
Read Third Time. [6th July.
Widows', Orphans' and Old Age Contributory Pensions Bill.
Read Second Time. [7th July.

Questions to Ministers.

PETTY SESSIONAL COURTS PROCEDURE.

Mr. LEE-JONES asked the Home Secretary by what authority police officers act in usurping the professional rights of members of the legal profession in prosecuting, as advocates, in petty sessional courts?

Sir J. SIMON: Section 14 of the Summary Jurisdiction Act, 1848, provides that the justices are to hear the prosecutor and such witnesses as he may examine and such other evidence as he may adduce, and so far as I am aware the position of a police officer, when he is the prosecutor, does not differ in this respect from that of a private individual. [2nd July.

Lord Sankey has accepted the invitation of the National Union of Boot and Shoe Operatives and the Federation of Boot Manufacturers to undertake the duties of national umpire under the terms of settlement of the shoe trade. This office was held by Lord Buckmaster until his death in December, 1934.

Rules and Orders.

THE RULES OF THE SUPREME COURT (No. 3), 1936.
DATED JUNE 26, 1936.

We, the Rule Committee of the Supreme Court, hereby make the following Rules:—

1. In Order V the following Rule shall be inserted after Rule 5 to stand as Rule 5A:—

"5A. Every action in which there is a claim for payment of principal money or interest secured by any mortgage or charge or a claim for possession of any property forming a security for payment to the plaintiff of any principal money or interest shall be assigned to the Chancery Division:

Provided that this Rule shall not apply to an action assigned to the Probate Divorce and Admiralty Division by section 56 (3) of the Act."

2. The following amendments shall be made in Order XIII:—

(*a*) In Rule 3, after the words "the plaintiff may" there shall be inserted the words "subject as provided by Rule 17 of this Order."

(*b*) After Rule 16 the following Rule shall be added and shall stand as Rule 17:—

"17. In any action in which the plaintiff is claiming any relief of the nature or kind specified in Order LV Rule 5A no judgment shall be entered in default of appearance without leave of the court or a judge who may require the application for leave to be supported by such evidence as might be required if relief were being sought on originating summons under Order LV Rule 5A and may require notice of such evidence to be given to the defendant."

3. The following amendments shall be made in Order XXVII:—

(*a*) In Rule 2, after the words "deliver a defence, the plaintiff" there shall be inserted the words "subject as provided by Rule 17 of this Order."

(*b*) In Rule 3, after the words "the proviso to Rule 2" there shall be inserted the words "and subject as provided by Rule 17 of this Order."

(*c*) After Rule 16 the following Rule shall be added and shall stand as Rule 17:—

"17. In any action in which the plaintiff is claiming any relief of the nature or kind specified in Order LV Rule 5A—

(*a*) no judgment shall be entered in default of pleading without leave of the court or a judge who may require the application for leave to be supported by such evidence as might be required if relief were being sought on originating summons under Order LV Rule 5A and may require notice of such evidence to be given to the defendant;

(*b*) on any motion for judgment under Rule 11 of this Order the judge may require the motion to be supported by such evidence as might be required if relief were being sought on originating summons under Order LV Rule 5A and may require notice of such evidence to be given to the defendant."

4. After Rule 12 of Order XXXI the following Rule shall be inserted and shall stand as Rule 12A:—

"12A. Where in any action arising upon a Marine Insurance Policy an application for discovery of documents is made by the insurer, the following provisions shall apply:—

(*a*) On the hearing of the application, the court or judge may, subject as is provided in the next paragraph, make an order in accordance with Rule 12 or Rule 14 of this Order.

(*b*) Where in any case the court or judge is satisfied, either on the original application or on a subsequent application, that it is necessary or expedient, having regard to the circumstances of the case, to make an order for the production of ship's papers, the court or judge may make such an order in the Form No. 19 in Appendix K.

(*c*) In making an order under this Rule the court or judge may impose such terms and conditions as to staying proceedings or otherwise as the court or judge in its or his absolute discretion shall think fit.

(*d*) Rule 13A of this Order shall not apply to any application made under this Rule."

5. In Rule 13 of Order XXXI for the words "a party against whom such order as is mentioned in the last preceding Rule has been made" there shall be substituted the words "any person against whom an order for discovery of documents has been made under Rule 12 or under paragraph (*a*) or paragraph (*b*) of Rule 12A of this Order," and after the words "and it shall" the words "except in the case of an order made under paragraph (*b*) of Rule 12A," shall be inserted.

6. Rule 21A of Order LIIIA shall be annulled and the following Rule shall be substituted therefor:—

"21A.—(1) In any action for infringement of a patent or petition for the revocation of a patent, the plaintiff or petitioner shall, as soon as he becomes entitled to give notice of trial, apply as to the mode of trial, and if he fails to apply within fourteen days of becoming so entitled, the defendant or respondent, as the case may be, may make such application.

Any such application may be dealt with in chambers or in court, as the Judge shall think fit.

(2) Upon any such application the court or judge may give such directions:—

(*a*) for the delivery of further pleadings or particulars;

(*b*) for the delivery of statements signed by counsel setting out all the contentions whether of fact or law (including contentions as to the construction of the specification or other documents) upon which the parties respectively intend to rely;

(*c*) for the taking by affidavit of evidence relating to matters requiring expert knowledge, and for the filing of such affidavits and the delivery of copies thereof to the other parties;

(*d*) for the making of experiments, tests, inspections or reports;

(*e*) for the hearing, as a preliminary question, of any question that may arise (including any question as to the construction of the specification or other documents),

and otherwise as the court or judge may think necessary or expedient for the purpose of defining and limiting the issues to be tried, restricting the number of witnesses to be called at the trial of any particular issue, and otherwise securing that the case shall be disposed of, consistently with adequate hearing, in the most expeditious manner.

Where any affidavits are directed to be taken as aforesaid, the deponents shall, unless the parties otherwise agree, attend at the trial for cross-examination.

(3) No action for infringement of a patent or petition for the revocation of a patent shall be set down for trial unless and until an application under this Rule has been made and disposed of."

7. In Order LV Rule 5A, after "that is to say,—" there shall be inserted the words "Payment of monies secured by the mortgage or charge."

8. These Rules may be cited as the Rules of the Supreme Court (No. 3) 1936, and the Rules of the Supreme Court, 1883, shall have effect as amended by these Rules.

9.—(1) Rules 1, 2, 3 and 7 of these Rules shall come into operation on the 12th day of October, 1936.

(2) The remainder of these Rules shall come into operation on the 13th day of July, 1936.

Dated the 26th day of June, 1936.

Hailsham, C.	*A. C. Clauson*, J.
Hewart, C.J.	*C. J. W. Farwell*, J.
Wright, M.R.	*A. W. Cockburn*
F. B. Merriman, P.	*C. H. Morton*
Rigby Swift, J.	*Roger Gregory*
Finlay, J.	

THE MATRIMONIAL CAUSES (AMENDMENT) RULES, 1936. DATED JUNE 26, 1936.

We, the Rule Committee of the Supreme Court, hereby make the following Rules:—

1. The following amendment shall be made in Rule 71 (A) of the Matrimonial Causes Rules, 1924*:—

The words "Application to vary marriage settlements shall be made by petition filed after but within one calendar month of Decree Absolute" shall be omitted and the following words shall be substituted therefor:—

"Applications to vary marriage settlements shall be made by petition filed after decree nisi, but not later than one calendar month after decree absolute."

2.—(1) These Rules shall be cited as the Matrimonial Causes (Amendment) Rules, 1936, and the Matrimonial Causes Rules, 1924, as amended,† shall have effect as further amended by these Rules.

(2) These Rules shall come into operation on the 13th day of July, 1936.

Dated the 26th day of June, 1936.

Hailsham, C.	*A. C. Clauson*, J.
Hewart, C.J.	*C. J. W. Farwell*, J.
Wright, M.R.	*A. W. Cockburn*
F. B. Merriman, P.	*C. H. Morton*
Rigby Swift, J.	*Roger Gregory*
Finlay, J.	

* S.R. & O. 1924 (No. 126) p. 1691.

† *See* S.R. & O. 1925 (No. 74) p. 1536, 1932 (Nos. 49, 283 and 523) pp. 1682-4, 1933 (No. 646) p. 1822 and 1934 (No. 1348) II, p. 602.

The Law Society.

INTERMEDIATE EXAMINATION.

The following Candidates (whose names are in alphabetical order) were successful at the Intermediate Examination held on the 10th and 11th June, 1936. A Candidate is not obliged to take both parts of the Examination at the same time.

FIRST CLASS.

Cecil Altman, Kenneth William Bowder, Douglas Ernest Breeze, John Theodore Eiwell, John Edward Fairclough, Richard Talbot Flower, David Geoffrey Lea, John Philip Merson, Conroy Rodney Mitchell, John Coubro' Mossop, B.A. Cantab., Bernard Joseph Potter, Frank Banfill Prout, Marcell William Vellacott Richards, Leslie Ernest Riches, Cyril Alexander Rosenthal, Harry Charles Seigal, B.A. Oxon, Raymond Lawrence Ward, Alfred Thirkill Webster, Richard Lionel George Wood.

PASSED.

Utrick Henry Burton Alexander, Jack Atkinson, Harold Jack Barnett, Laurence Barraclough, Alexander Walter Barton, Norman Barwick, William Craig Bawden, Philip Anthony Boyns, John Cromer Braun, Robert Maurice Brodtman, Richard Ashton Burne, Bertram Frederick Chapman, Jim Cooksley, Humphrey Cauldwell Cotman, Thomas Deakin, Gerard Joseph Dennison, Peter Howard Earl, Sydney Charles Field, Cecil Vernon Ford, Kenneth Stanley Gain, John Edward Gower, Herbert Graham, Knowlton Tranchell Hampshire, B.A. Oxon, Henry Reynardson Hewlett, Geoffrey Gould Remington Hickes, Kenneth Stephenson Himsworth, B.A. Cantab., William John Raymond Howells, Norman David Innes, Godfrey William Iredell, Henry Charles East Johnson, Ilston Percival Llewellyn Jones, Kurt Krakenberger, Gerald Lebor, Murray Lewin, Henry Thomas Charles Lloyd, Peter Lowy, John Stanley Mann, Aaron Simon Matthews, John Charlesworth Moult, Norman Wilson Neville, Alexander Meadows Rendel, B.A. Oxon, John Rodgers, James Jeffrey Rothwell, Stanley Rutherford, Eric Arthur Scudamore, Eulalie Evan Spicer, M.A. London, Ernest Leopold Sumner, Arthur Richard Trench, Stanley Naisbitt Walton, Montague Waters, John Barlow Wayne, Cecil Victor Alexander Wearn, Alan William White, Francis Conder Whitty, Henry James Wilson, William Wilson, Frederick William Woods, Douglas Leslie Wright, B.A. Oxon, Peter Basil Wright.

The following Candidates have passed the Legal portion only:—

Laurence Arthur Allen, Kenneth Andrews, John Annan, B.A. Cantab., Ernest Saxton Appleby, Anthony Nicholas Armstrong, Cecil Barber, Harold Lindsey Barker, George Allen Batty, John Goodwyn Allden Beckett, B.A. Cantab., Brian Gurney Benham, Robert Dennis Alford Bergman, Donald Edgar Beswick, Alfred Lapthorn Blake, Robert Cairns Blakiston, Richard Walter Blott, George Henry Boatte, John Oliver Bostock, B.A. Oxon, Raphael Howard Boyers, Kenneth Taylor Braine-Hartnell, Charles Courtenay Brian, James Llewellyn Briggs, Allan Deans Brown, Thomas Alan Nicholson Bruce, John Harold Burn, William Oscar Burn, Edith Rosemary Campbell, Christopher John Carey, George Norman Bromley Challenor, Derrick Charsley-Thomas, Michael Carsey Chittock, Lionel Francis Church, John Alexander Churchill, Donald John Clark, Philip Edwin Vernon Clark, Hugh Geoffrey Clarke, Howard Norman Clifford-Turner, Montague Cohen, John Ambrose Collard, B.A. Oxon, Brian Hugh Hobson Cooke, Raymond St. Clair Cooper, Desmond Henry Corkery, Thomas Broderick Cox, Francis James Pearson Craven, Leslie Gordon Cullen, Eric Whitfield Culwick, Harold Curwen, Patrick Cussen, B.A. Oxon, Andrew Thomas Cutts, Harold Woodhouse Daughtrey, Douglas Morley Davies, John Dudley Dixon, Leonard Hindle Dodd, John Edmund Sidney Duff, Antony Arthur Walter Ellis, Evan Glyn Evans, Egerton Allan Ferguson, Elizabeth Margaret Eileen Filbee, Frederick Ronald Fradd, John Stanley Duncombe Frith, Herbert William Gamble, Stephen Kearsley Garratt, Douglas Frank Gernat, Louis Victor Worth Gerrard, Walter James Gilmore, Samuel Marsland Ginn, B.A. Cantab., Edward Nathaniel Grace, Charles Woodward Graham, Dennis Arthur Grant, Donald William Gravett, Anthony Green, Ashley Martin Greenwood, B.A. Cantab., Benjamin Walter Gregory, Richard Owen Griffiths, Thomas Wynne Griffiths, Arthur Geoffrey Theodore Hadley, Basil Brodribb Hall, Cecil Martin Hannam, Neville Crompton Haslegrave, Norman Frank Proctor Hatch, Herbert Julius Hellerman, Reginald Walter Hepburn, Harold Davies Hocking, Leonard Walter Hopkins, John Derek Hoyle, James Leslie Hughes, Philip Malcolm Hunter, John Esmond Hilton Hutchinson, Eric Irvine, Richard John, John Maldwyn Johns, Kenneth Graham Johnson, Frank Jones, Herbert Vincent Jones, Hugh Leslie Jones, William Emrys Jones,

Jack Lewis Judd, Yuet Keung Kan, B.A. Hong Kong, John Kent, Donald Arthur Kershaw, Derek Alexander Scott Kilvert, Gordon Thomas Stafford Lane, David Herbert Leather, John Broughall Lee, Leonard Henry Lee, Geoffrey Tom Le Lacheur, John Victor Lloyd-Jones, Geoffrey Thomas Fleetwood Luya, Eric McCreath, B.A. Cantab., John Chad McHale, William McIntyre, Sidney Leonard Vickerman Mainprise, M.A. Cantab., Patrick Cæsar de Mérindol Malan, Emmanuel Marks, John Cole Marshall, Byam Morgan Mathias-Thomas, Ashurst Everad Stuart Menzies, Donald Charles William Milton, Geoffrey Wilkinson Moore, Samuel John Godfrey Gunthorpe Morgan-Morris, Arthur James Morley, Stuart Protheroe Morris, Gilbert Henry Francis Mumford, Donald Edward Munro, B.A. Cantab., Hugh Cowan Neilson, B.A. Cantab., Gervase Henry Nicholls, Raymond Guy Vere Nicoll, Cornelius O Beirne, John Edwin Peake, Christopher Pemberton, Richard Charles Eric Phillips, Sydney John Pethecary, Joseph William Hartley Pritchard, Peter Richard Pumfrey, John William Richardson, Benjamin Rider, John Robert Riding, Archibald Woodhouse Rodger, John Spray Rogers, Victor Rose, John Rowe, Edwin Henry Rowlands, Harold Leslie Sagar, Thomas Gerald Lulman Saint, Frank Albert Azor Savage, Edward Alan Scott, Albert Reginald Shott, Harold Sklan, Robert Hugh Edwin Sloan, Basil Gerrard Smith, B.A. Oxon, James Smith, Leonard Pollock Bealy Smith, Stanley Ronald Philip Solomon, B.A. Oxon, Isaiah Sorgenstein, Frederick Peter Standley, Geoffrey Stott, Richard Edgar Stowell, Archibald Geoffrey Stubbs, Thomas Frank Swindells, John Eric Symons, Louis Tarlo, Maurice Aaron Tarlo, Brian Edward Lyon Taylor, B.A. Cantab., Charles Eric Taylor, John Lowell Tetlow, Norman Peter Landers Thomas, Edward Keith Thompson, James Arthur Harvey Tilley, John Renshaw Beckit Truman, George Martin Turnell, B.A. Cantab., John Winspear Turner, Paul Denys Campbell Wadsley, Alan Charles Victor Waite, Billy Dearden Walker, Hugh Arthur James Walton, Maurice Owen Wellbelove, William Ridley Wheatley, John Archibald Whitham, Jack Wilkinson, Birkett Bell Williams, Robert Leslie Williams, Harold Brend Winterbotham, B.A. Cantab., Wilfred Arthur Wise, Andrew Wontner-Smith, Frank Eugène Wood, B.A. Cantab., John Thornicroft Woodgate, Edward Howard Newcome Wright.

No. of Candidates, 402. Passed, 264.

The following candidates have passed the Trust Accounts and Book-keeping portion only :—

Maurice Lionel Alexander, Neville Waldegrave Atchley, Harry Baker, Vaughan Herridge Baker, George Albert Pascall Bance, Geoffrey Walker Leigh Barlow, LL.B. Manchester, James Arthur Barnett, Henry Peter Beckett, Charles George Bennion, B.A. Cantab., John Anthony Blackwood, LL.B. Liverpool, Thomas Colston Blagg, David Brooks, John Pendrill Charles, B.A. Cantab., George Arnold Cohen, William Ralph Cole, Harold Edward Collin, B.A. Cantab., Dacre Ian Cressy Cooke, B.A. Cantab., William Norman Cookson, LL.B. London, Frederick Henry Cooper, Herbert John Cooper, John Waymouth Crabb, Wilfred Crawley, Bertram Fred Jeffries Crowder, Norman Ronald Aubrey Crowe, Christopher James York Dallmeyer, Albert Edward Dalton, John Paul Darch, Edward Gwyn Davies, Eric Henry Davis, John Oliver Dixon, Rudolf Edler, LL.B. London, Arthur John Edwards, Frederic Norman Shipley Edwards, George Edwards, Barnet Ellis, B.A. Oxon, Brian Edward Keene Figgis, Anthony Herbert Foord, Richard Allan Foster, William Foux, Eric Patrick Fullbrook, Richard Spencer Gardner, Michael Alan Raby George, Frank Gittins, Samuel Stanley Glove, B.A. Oxon, Reginald Marcus Godman, Peter Goodricke, Kenneth Selman Graham, John Hawtin Marshall Greaves, B.A. Cantab., Maurice Campbell Green, George Hugh Harland, B.A. Oxon, Lucien Harris, B.A. Oxon, Percival Harris, Douglas Arthur Haslam, William Jerome Healy, B.A. Cantab., William Kenneth Hicks, Edward Henry Hill, Norman Davis Hodgson, John Menzies Holland, LL.B. Manchester, William Holland, Francis Evan Homivall, Frank Arnold Hooley, Kenneth Millington Hore, Frederic Thomas Horne, Richard Brian Hughes, Kenneth Cadwgan Hunt, Geffrey Allison Hurst, Rupert Arthur Ingram, Jacob Israel, LL.B. London, Sidney Jacey, Arthur Poyntz Jack, Geoffrey Hippolyte Jacobs, Alfred Norman James, Austin Ingram James, B.A. Oxon, Frank Alan Ewart James, Harold Sidney James, Percy Jenkinson, Charles Walter Lionel Jervis, John Gwilyn Jones, B.A. Wales, Alexander Alfred Kassman, Eric Saxon Kearsley, Bryan Keith-Lucas, B.A. Cantab., Gerald Austin Kemp, Bernard Kevill, B.A. Oxon, Bertie Daniel Laddie, Alan Lambert, LL.B. Manchester, John Richard Lawson, Edward Kristian Lee, B.A. Oxon, John Wilfred Thomas Lilley, B.A. Cantab., James Cuthbert Lindsell, B.A. Cantab., Norman Lipman, Alexander Kenneth Stebbing McCurdy, Neil George Maclean, M.A., LL.B. Glasgow, Clive Victor MacSwiney, B.A. Cantab., Christopher John Malim, B.A. Oxon, Frank Mander, John Arthur Manistre, Alan Marshall, Roger Sydenham Marshall, Victor Mishcon, Donald Stewart Mitchell, B.A. Oxon, George Henry Guy Monkhouse, Douglas Watterson Morris, Jacob Newman, LL.B. Liverpool, John Norburn, James Farrer Nowell, Harry Nugent, Maurice Joseph O'Connor, Laurence John Oderbolz, Harry Offenbach, William Muspratt Permewan, B.A., LL.B. Cantab., James Henry Caswall Phelips, B.A. Oxon, Frank Coningsby Phoenix, Ernest Denis Pickering, Richard Francis Joseph Pollock, John Ward Pounder, Edmund Onslow Powell, John Edward Powell, John Hinton Powell, B.A. Cantab., David Prosser, Douglas Stanley Randall, Arthur Victor Ratcliff, B.A. Oxon, Kenneth Arthur George Raybould, B.A. Oxon, William Edwin Reece, B.Sc. Durham, Francis James Ridsdale, B.A. Cantab., Richard Louis Rieu, Derek Cecil Riley, Raymond Leonard Ringrose, David Robert Anidjar Romain, B.A. Cantab., Maurice Edwin Rooke, John Andrew McIvor Rutherford, Denis Richard Meddins Sadler, Philip Segar Scorer, John Sephton, M.A. Liverpool, Douglas Percy Sewell, B.A. Cantab., Aubrey Sidney-Wilmot, Herbert Sklar, Aubrey Leonard Slater, LL.B. London, John Evelyn Smith, B.A. Cantab., Ernest Philip Mawdsley Sprott, B.A. Oxon, George Swirsky, LL.B. London, Peter Henri Talbot, Noel Marshall Thomas, B.A. Oxon, John Knowles Thorpe, M.A. Cantab., James Andrew Townsend, B.A. Cantab., John Heli Tratt, Denis Tye, Agnes Margaret Wain, Mary Percival Walsh, Robin Arthur Ward, Royal George Wareham, George Ainsworth Wates, B.A. Cantab., Kenneth William Welfare, B.A. Cantab., John Arthur Wheeler, Richard James Vernon Wheeler, B.A. Oxon, Henry Woodhouse, B.A. Oxon, Frank John Woodward, Harold Bateman Wright, Charles Yates, Stephen Naunton Young, B.A. Cantab.

No. of Candidates, 347. Passed, 237.

Legal Notes and News.

Honours and Appointments.

The King has been pleased to approve a recommendation of the Home Secretary that Mr. D. P. Maxwell Fyfe, K.C., M.P., be appointed Recorder of Oldham, to succeed Mr. Tom Eastham, K.C., who has been appointed an Official Referee. Mr. Maxwell Fyfe was called to the Bar by Gray's Inn in 1922, and took silk in 1934.

It is announced by the Colonial Office that His Majesty the King has been pleased to approve the appointment of Mr. Llewelyn Chisholm Dalton, Puisne Justice, Ceylon, to be Chief Justice, Tanganyika, in succession to Sir Sidney Solomon Abrahams, whose appointment as Chief Justice of Ceylon was announced recently.

The Colonial Office announces the following appointments and promotions in the Colonial Service :—

Mr. K. V. Brown (Magistrate), appointed Third Puisne Judge, Trinidad.

Mr. A. W. Lewey (Crown Counsel, Kenya), appointed Solicitor-General, Uganda.

Lieutenant-Commander A. R. W. Sayle, R.N.R. (Crown Counsel, Nigeria), appointed Solicitor-General, Sierra Leone.

Mr. J. Verity (Resident Magistrate, Jamaica), appointed Puisne Judge, British Guiana.

The Minister of Agriculture and the Secretary of State for Scotland have appointed Mr. Harold L. Murphy, K.C., to be Chairman of the Committee of Investigation for Great Britain, appointed under s. 9 of the Agricultural Marketing Act, 1931, in succession to the late Mr. Edward Shortt, K.C. The Minister of Agriculture has also appointed Mr. Murphy to be Chairman of the Committee of Investigation for England, the chairmanship of which was rendered vacant by the recent death of Mr. James Whitehead, K.C.

Mr. H. W. K. Calder, solicitor, of King William-street, E.C., has been elected a member of the Common Council for the Ward of Bridge. Mr. Calder, who was admitted a solicitor in 1925, is a partner in the firm of Messrs. Francis & Calder.

Mr. Wilson H. Smith, LL.B., advocate, of Aberdeen, has been appointed Burgh Procurator-Fiscal of Aberdeen by the City Magistrates, in succession to Mr. Gavin Sinclair, who retires at the end of July.

Mr. Hywel S. R. Rogers, Assistant Solicitor to the Lincoln Corporation, has been appointed first permanent prosecuting solicitor for the police of the City of Cardiff. Mr. Rogers was admitted a solicitor in 1931.

Mr. Keith Lauder, solicitor, of Enfield, has been appointed solicitor to Enfield District Council. Mr. Lauder was admitted a solicitor in 1932.

Professional Announcements.

(2s. per line.)

SOLICITORS & GENERAL MORTGAGE & ESTATE AGENTS ASSOCIATION.—A link between Borrowers and Lenders, Vendors and Purchasers.—Apply, The Secretary, Reg. Office: 12, Craven Park, London, N.W.10.

Notes.

Mr. A. Levine, general manager of the Alliance Assurance Company, Limited, has been elected president of the Chartered Insurance Institute.

Lord Hailsham was elected President of the Professional Classes Aid Council at its annual general meeting, held at the Royal College of Physicians last Monday.

The following awards have been made in the Faculty of Laws at University College, London: Entrance Scholarship, R. M. Forrest (Harrow County School); Jurisprudence, Joseph Hume Scholarship, I. W. Davies.

The directors of Midland Bank Limited announce an interim dividend for the half-year ended 30th June last at the rate of 16 per cent. per annum, less income tax, payable on 15th July next. The same rate of dividend was declared a year ago.

Mr. F. H. Sherwell, manager and secretary of The Guarantee Society, Ltd., is retiring at the end of July, after fifty years' service; and is to be appointed to a seat on the board. Mr. Sherwell will be succeeded by Mr. E. H. Labbett, at present assistant secretary.

Advantage was taken at the North Riding Quarter Sessions at Northallerton (says *The Times*) of the old custom which permits a solicitor having audience when no counsel are present. The matter arose when the only prisoner for trial asked for legal aid. He was told by the Chairman, Major R. B. Turton, that as he had not made his request earlier there was no barrister present except counsel briefed for the prosecution in his case, but the Court would allow the prisoner a solicitor to defend him. The prisoner agreed to this, and Mr. Heath, of Northallerton, was allowed to undertake the defence.

Mr. Justice Goddard, at Hants Assizes at Winchester last Tuesday (says *The Times*), criticised the methods of private inquiry agents to secure evidence for divorce petitions. "They seem to do queer things in this part of the world," he said. "I have had two cases where these people have broken into houses. These men, who call themselves inquiry agents, seem to go breaking into houses at night. I sincerely hope that one day they will get sued for damages, and if I were the judge there would be considerable damages. What I hope is that one of them will get a good drumming one day. That will teach him manners."

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS' IN ATTENDANCE ON

DATE.	EMERGENCY ROTA.	APPEAL COURT I.	GROUP I. MR. JUSTICE EVE. Non-Witness.	GROUP I. MR. JUSTICE BENNETT. Witness Part I.
	Mr.	Mr.	Mr.	Mr.
July 13	Ritchie	Hicks Beach	More	*Andrews
,, 14	Blaker	Andrews	Ritchie	*More
,, 15	More	Jones	Andrews	*Ritchie
,, 16	Hicks Beach	Ritchie	More	Andrews
,, 17	Andrews	Blaker	Ritchie	*More
,, 18	Jones	More	Andrews	Ritchie
	GROUP I. MR. JUSTICE CROSSMAN. Witness Part II.	MR. JUSTICE CLAUSON. Witness Part II.	GROUP II. MR. JUSTICE LUXMOORE. Witness Part I.	MR. JUSTICE FARWELL. Non-Witness.
	Mr.	Mr.	Mr.	Mr.
July 13	*Ritchie	Hicks Beach	*Blaker	Jones
,, 14	Andrews	*Blaker	*Jones	Hicks Beach
,, 15	*More	Jones	*Hicks Beach	Blaker
,, 16	Ritchie	*Hicks Beach	*Blaker	Jones
,, 17	*Andrews	Blaker	Jones	Hicks Beach
,, 18	More	Jones	Hicks Beach	Blaker

*The Registrar will be in Chambers on these days, and also on the days when the Court is not sitting.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 23rd July, 1936.

	Div. Months.	Middle Price 8 July 1936.	Flat Interest Yield. £ s. d.	‡Approximate Yield with redemption £ s. d.
ENGLISH GOVERNMENT SECURITIES				
Consols 4% 1957 or after	FA	114½	3 9 10	3 1 1
Consols 2½%	JAJO	85	2 18 10	—
War Loan 3½% 1952 or after	JD	106¼	3 5 10	3 0 0
Funding 4% Loan 1960-90	MN	117	3 8 5	2 19 11
Funding 3% Loan 1959-69	AO	103½	2 18 0	2 15 10
Funding 2½% Loan 1956-61	AO	93½	2 13 6	2 17 5
Victory 4% Loan Av. life 23 years	MS	115½	3 9 3	3 1 1
Conversion 5% Loan 1944-64	MN	118¼	4 4 7	2 6 2
Conversion 4½% Loan 1940-44	JJ	109	4 2 7	2 11 0
Conversion 3½% Loan 1961 or after	AO	107¼	3 5 3	3 1 8
Conversion 3% Loan 1948-53	MS	104½	2 17 5	2 11 2
Conversion 2½% Loan 1944-49	AO	101½	2 9 3	2 5 6
Local Loans 3% Stock 1912 or after	JAJO	96⅝	3 2 1	—
Bank Stock	AO	374	3 4 2	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	86½	3 3 7	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	95½	3 2 10	—
India 4½% 1950-55	MN	115½	3 17 11	3 2 4
India 3½% 1931 or after	JAJO	98½	3 11 1	—
India 3% 1948 or after	JAJO	85¾	3 9 11	—
Sudan 4½% 1939-73 Av. life 27 years	FA	117½	3 16 7	3 9 9
Sudan 4% 1974 Red. in part after 1950	MN	116	3 9 0	2 12 4
Tanganyika 4% Guaranteed 1951-71	FA	113½	3 10 6	2 17 6
L.P.T.B. 4½% "T.F.A." Stock 1942-72	JJ	109	4 2 7	2 14 0
COLONIAL SECURITIES				
Australia (Commonw'th) 4% 1955-70	JJ	109	3 13 5	3 7 0
*Australia (C'mm'nw'th) 3¼% 1948-53	JD	103	3 12 10	3 8 10
Canada 4% 1953-58	MS	110½	3 12 5	3 3 9
*Natal 3% 1929-49	JJ	101	2 19 5	—
*New South Wales 3½% 1930-50	JJ	100	3 10 0	3 10 0
*New Zealand 3% 1945	AO	99½	3 0 4	3 1 4
Nigeria 4% 1963	AO	113	3 10 10	3 5 5
*Queensland 3½% 1950-70	JJ	101	3 9 4	3 8 0
South Africa 3½% 1953-73	JD	107	3 5 5	2 19 5
*Victoria 3½% 1929-49	AO	100	3 10 0	3 10 0
CORPORATION STOCKS				
Birmingham 3% 1947 or after	JJ	97	3 1 10	—
*Croydon 3% 1940-60	AO	100	3 0 0	3 0 0
Essex County 3½% 1952-72	JD	106½	3 5 9	2 19 8
Leeds 3% 1927 or after	JJ	93	3 4 6	—
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	106	3 6 0	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	80	3 2 6	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	95	3 3 2	—
Manchester 3% 1941 or after	FA	96	3 2 6	—
*Metropolitan Consd. 2½% 1920-49	MJSD	100	2 10 0	2 10 0
Metropolitan Water Board 3% "A" 1963-2003	AO	96	3 2 6	3 2 10
Do. do. 3% "B" 1934-2003	MS	97	3 1 10	3 2 1
Do. do. 3% "E" 1953-73	JJ	100	3 0 0	3 0 0
Middlesex County Council 4% 1952-72	MN	114	3 10 2	2 17 10
† Do. do. 4½% 1950-70	MN	115	3 18 3	3 3 1
Nottingham 3% Irredeemable	MN	96	3 2 6	—
Sheffield Corp. 3½% 1968	JJ	106½	3 5 9	3 3 5
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS				
Gt. Western Rly. 4% Debenture	JJ	111½	3 11 9	—
Gt. Western Rly. 4½% Debenture	JJ	122¼	3 13 6	—
Gt. Western Rly. 5% Debenture	JJ	136½	3 13 3	—
Gt. Western Rly. 5% Rent Charge	FA	132	3 15 9	—
Gt. Western Rly. 5% Cons. Guaranteed	MA	132	3 15 9	—
Gt. Western Rly. 5% Preference	MA	118	4 4 9	—
Southern Rly. 4% Debenture	JJ	110	3 12 9	—
Southern Rly. 4% Red. Deb. 1962-67	JJ	111	3 12 1	3 7 3
Southern Rly. 5% Guaranteed	MA	131½	3 16 1	—
Southern Rly. 5% Preference	MA	120	4 3 4	—

*Not available to Trustees over par. †Not available to Trustees over 115
‡In the case of Stocks at a premium, the yield with redemption has been calculated as at the earliest date; in the case of other Stocks, as at the latest date.

1936

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Stock
6.

‡Approximate Yield with redemption	£	s.	d.
	3	1	1
		—	
	3	0	0
	2	19	11
	2	15	10
	2	17	5
	3	1	1
	2	6	2
	2	11	0
	3	1	8
	2	11	2
	2	5	6
		—	
		—	
		—	
		—	
	3	2	4
		—	
		—	
	3	9	9
	2	12	4
	2	17	6
	2	14	0
	3	7	0
	3	8	10
	3	3	9
		—	
	3	10	0
	3	1	4
	3	5	5
	3	8	0
	2	19	5
	3	10	0
		—	
	3	0	0
	2	19	8
		—	
		—	
		—	
		—	
		—	
	2	10	0
	3	2	10
	3	2	1
	3	0	0
	2	17	10
	3	3	1
		—	
	3	3	5
		—	
		—	
		—	
		—	
		—	
		—	
	3	7	3
		—	
		—	

over 115
alculated